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UNITED STATES OF AMERICA
OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH
NUCLEAR REGULATORY COMMISSION

before the
ATOMIC SAFETY AND LICENSING BOARD

_____)	
In the Matter of)	
_____)	
PUBLIC SERVICE COMPANY OF)	Docket Nos. 50-443-OL-1
NEW HAMPSHIRE, et al.)	50-444-OL-1
_____)	Onsite Emergency
(Seabrook Station, Units 1 and 2))	Planning and Safety
_____)	Issues

APPLICANTS' RESPONSE TO AMENDED
CONTENTION OF ATTORNEY GENERAL FOR THE
COMMONWEALTH OF MASSACHUSETTS ON
NOTIFICATION SYSTEM FOR MASSACHUSETTS

On April 15, 1988, the Attorney General for The Commonwealth of Massachusetts ("Mass AG") submitted an amended contention on the Applicants' Vehicular Alert and Notification System (VANS). Pending before the Nuclear Regulatory Commission is Applicants' Petition for review of the decision of the Atomic Safety and Licensing Appeal Board handed down on February 3, 1988, denominated ALAB-883, in which the Appeal Board granted Mass AG's motion to reopen the evidentiary record in this proceeding with regard to Applicants' public notification system, alternative to the previous in-place system dismantled by reason of the actions and inaction of The Commonwealth. Should the Commission

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determine that the actions of The Commonwealth and its political subdivisions and agencies in contributing to the dismantling of the prior system estop Mass AG from obtaining the reopening he requested, his proffered contention will not be allowed. For present purposes Applicants assume that their Petition will be denied and herein respond to Mass AG's amended contention.

Applicants do not object to the admission of Mass AG's amended contention. The Order admitting the amended contention, however, should specifically note that certain of the proffered basis statements do not raise cognizable issues and should be rejected.

Basis "B"

Mass AG split the basis statement into two parts: "A" for VANS and "B" for the backup airborne alerting system. The entire part "B" should be rejected as lacking regulatory basis. The unnumbered first paragraph under Basis "B" states Mass AG's erroneous premise that "lack of information [about the backup system] prevents this Board from making a finding that the airborne system meets NRC regulations and standards." Amended Contention at unnumbered page 7. No such finding is needed. "NUREG-0654 does not require that backup procedures [in the event a siren should fail to operate] be set forth in emergency plans." Kansas Gas & Electric Co. (Wolf Creek Generating Station, Unit 1), LBP-84-26, 20 NRC 53, 67 (1984).

Specific paragraphs under Basis "B" fail for related reasons. "If no such procedures are needed, a fortiori, no standard time limit need be met . . . There is no requirement that the [backup] alerting system function in 15 minutes." Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-85-12, 21 NRC 644, 759 (1985), cf. Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-88-2, ___ NRC ___, CCH Nuclear Regulatory Reporter ¶ 31046 at 32389 (February 1, 1988) ("[T]here is no requirement that backup route alerting be completed within 45 minutes . . ."). There is no regulatory requirement that the airborne backup system "both sound a siren and issue a message" as Mass AG has it. Paragraph 5 seeks to relitigate a human behavior issue, the willingness of emergency workers to fulfill their emergency roles, that has been fully litigated before the "Offsite" Board in the New Hampshire Radiological Emergency Response Plan phase of the offsite hearings. Mass AG should not be permitted to relitigate this issue in the guise of a remanded contention on the issue of the Applicants' alternative notification system.

Basis "A"

In paragraph 2 under Basis "A", Mass AG misapprehends the requirement of basis for contentions. Mass AG admits he does not know the locations of staging areas and the pre-selected acoustic locations, yet contends that "Applicants are legally prohibited under local ordinances from operating

their six staging areas and their VANS vehicles at the pre-selected acoustic locations." Amended Contention at unnumbered page 3. Equally unaccountably, Mass AG puts forward as fact that "The fourteen VANS locations are physically inaccessible to the VANS equipment." Id. While contention statements are no longer required to be made under oath, they still should have some foundation in fact. Paragraphs 2 and 3 should be rejected.

Paragraph 10 under Basis "A" does not allege any deficiency; the regulations and guidance do not require indication of "when and under what circumstances . . . the message mode will be used" since the regulations do not require the message mode on the sirens to be used at all. This paragraph should be rejected. For the same reason, paragraph 9 should also be rejected.

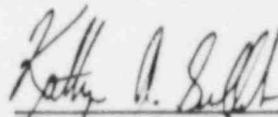
The unsupported general assertion in Paragraph 11 that "the system will work reliably, if at all, only when each vehicle is manned by at least two people" should be rejected.

As with paragraph 5 of Basis "B", paragraph 12 of Basis "A" seeks to relitigate a human behavior issue, the willingness of emergency workers to fulfill their emergency roles, that has been fully litigated before the "Offsite" Board in the New Hampshire Radiological Emergency Response Plan phase of the offsite hearings. The paragraphs should be rejected.

Paragraph 13 constitutes an impermissible attack on

Commission regulations expressly disallowed by 10 CFR 52.758(a). An inquiry into the availability of funds to the Applicants would require waiver of the financial qualification rule, a waiver the Mass AG currently seeks in another forum. The paragraph should be rejected as an unwarranted attempt to litigate financial qualifications.

By their attorneys,



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CERTIFICATE OF SERVICE

'88 APR 28 A10:54

I, Kathryn A. Selleck, one of the attorneys for the Applicants herein, hereby certify that on April 25, 1988, I made service of the within document by depositing copies thereof with Federal Express, prepaid, for delivery to (or where indicated, by depositing in the United States mail, first class postage paid, addressed to) the individuals listed below.

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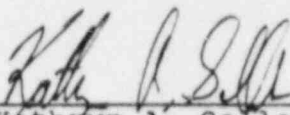
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