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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'88 MAY 17 P6:14

Before Administrative Judges:
Sheldon J. Wolfe, Chairman
Emmeth A. Luebke
Jerry Harbour

OFFICE OF TELETYPE
DOCKETING & SERVICE
BRANCH

In the Matter of)	Docket Nos. 50-443-OL-1
)	50-444-OL-1
)	
PUBLIC SERVICE COMPANY OF)	(Onsite Emergency Planning
NEW HAMPSHIRE, <u>et al.</u>)	and Safety Issues)
)	
(Seabrook Station, Units 1 and 2))	
)	May 16, 1988

ATTORNEY GENERAL'S REPLY TO RESPONSES
OF APPLICANTS AND NRC STAFF TO
AMENDED CONTENTION OF ATTORNEY GENERAL

Pursuant to this Board's Memorandum and Order of March 25, 1988, the Attorney General for the Commonwealth of Massachusetts ("Mass. A.G.") submits the following reply to the responses of the Applicants and the NRC Staff to the Amended Contention Of The Attorney General For The Commonwealth Of Massachusetts On Notification System For Massachusetts.

As an initial matter, the Board should note that the responses are limited in their challenges. They do not object to the admission of the amended contention, nor do they object to the majority of bases applicable to the VANS system. Specifically, neither the Applicants nor the NRC Staff oppose the admission of paragraphs 1, 4, 5, 7, 8 and 14 of the VANS bases.

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In addition, the Applicants do not challenge either paragraph 6 or the first sentence of paragraph 11 of the VANS bases.

AIRBORNE ALERTING SYSTEM

The Applicants and NRC Staff seek to have all of the bases with respect to the Airborne Alerting System rejected as lacking regulatory basis. They contend that there is no regulatory requirement for a backup system or that the system be capable of operating within a certain period of time.

However, paragraphs 1, 3 and 4 point to fundamental defects in the airborne alerting system which prevent it from working at all. Those paragraphs do not rely on any particular NRC regulation or standard with respect to time of completion of notification. The Applicants seek a finding that they have complied with 10 C.F.R. §50.47(b)(5) in part based on this backup system. Therefore, they have opened up litigation over the adequacy and operability of that system. See Consolidated Edison Co. of New York (Indian Point, Unit 2), LBP-83-68, 18 NRC 811, 938-940 (1983)(Licensing Board instructs NRC and FEMA to report on route altering procedures as backup for siren system). These allegations should be admitted and litigated.

The cases cited by the Applicants and Staff do not support the proposition that contentions relating to backup notification systems should not be admitted. In both cases, the Licensing Boards fully litigated contentions over the backup plans and indeed made specific findings on the adequacy of those systems.

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-85-12, 21 NRC 644, 758-759 (1985); Kansas Gas & Electric Co. (Wolf Creek Generating Station, Unit 1), LBP-84-26, 20 NRC 53, 67 (1984).

Paragraph 2 should be admitted notwithstanding its reliance on regulatory time standards. The two cases relied on by the Applicants for the proposition that backup systems need not meet specific time limits are inapposite here. In both Kansas Gas and LILCO, the primary system was a fixed siren system, the most widely accepted and used early notification system. The VANS system relied on by the Applicants is a hybrid, not discussed in either NUREG-0654 or FEMA-REP-10. Because of the uncertainty surrounding the primary VANS system, the Board should find that the Airborne Alerting System must be scrutinized, even as a backup system, to a greater extent here than if it were a backup for a fixed siren system. Therefore, it is appropriate to apply the time limits in those documents and in 10 C.F.R. Part 50 App. E(IV) to the airborne system.

The Applicants claim that paragraph 5 attempts to relitigate human behavior issues fully litigated before the board in the New Hampshire RERP phase of the off-site hearings. However, a ruling has not issued on that phase of the case. If the ruling is favorable to the Intervenors on behavioral issues, it may well have estoppel effect in these proceedings. Unless and until the issue is resolved adversely to the Intervenors, the basis is appropriate.

VANS SYSTEM

The Applicants and NRC Staff first object to paragraphs 2 and 3, claiming that without identified staging areas or preselected acoustic locations there is no basis for these two paragraphs. With respect to paragraph 2, at least the local zoning by-laws for Amesbury, Massachusetts would prohibit the operation of the VANS system at any locations in Amesbury. More specificity can be provided on these legal prohibitions once the Applicants disclose the acoustic locations and staging areas. Withholding of this information apparently is designed to force the Mass. A.G. to meet the late-filed contention standard for any additional contentions or bases made necessary by the disclosure of this information. The information is within the Applicants' control and bases should not be stricken because they have elected not to release that information.

The Staff objects to paragraph 6 as lacking specificity. The specificity requirement exists only to ensure that adequate notice is provided as to what must be defended against. Illinois Power Co. (Clinton Power Station, Unit 1), LBP-81-61, 14 NRC 1735, 1737 (1981). There is no need to detail evidence in support of an allegation. Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-590, 11 NRC 542, 547-48 (1980). Here the basis is very specific -- certain enumerated weather conditions (snow, icy and extreme cold conditions) will impede the operation of the system in certain

identified ways (extention of the cranes, rotation and operation of the sirens and operation of the sirens themselves). Notice is more than ample. The Staff's objection is meritless.

The Applicants' and NRC Staff's objection to paragraphs 9 and 10 is also meritless. The Applicants claim that the VANS system will be used or at least capable for use in the message mode. See NYN-88025 at 2, 4, 6; NYN-88042 at Q.7-1. Indeed, the Applicants' FEMA-REP-10 design report at 2-6 indicates that messages will be used in the Massachusetts beach areas. Because the Applicants contemplate its use, paragraph 9 dealing with the problems of severe echo conditions for overlapping sound coverage is perfectly appropriate, relevant and admissable.

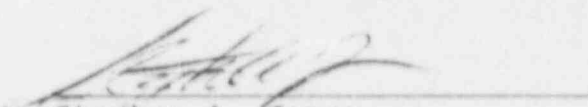
The first sentence of paragraph 11 (which the Applicants do not challenge) asserts that the Applicants have not committed the personnel at the appropriate locations to ensure that the system will work on a 24 hour basis. The staff objects that the Mass A.G. has not indicated "why personnel should be stationed at the VANS staging areas on a 24 hour basis." The simple answer is that the system must be operable 24 hours a day (NUREG-0654, App. 3, 3-5) and its operation depends on the extremely rapid deployment of VANS vehicles from the staging areas. See FEMA-REP-10 Design Report, Table 2-2. The second sentence of paragraph 11 makes the equally unassailable allegation that the tasks which must be performed for each vehicle particularly after

it reaches its preselected location will be reliably accomplished only if two people are assigned to each vehicle.

With respect to paragraph 12, addressing the behavioral issues arising from this system, the objection fails for the same reasons the objection to paragraph 5 on the airborne system fails.

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Dated: May 16, 1988

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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In the Matter of)	OFFICE OF SECRETARY
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PUBLIC SERVICE COMPANY OF)	BRANCH
NEW HAMPSHIRE, ET AL.)	Docket No.(s) 50-443-OL-1
(Seabrook Station, Units 1 and 2))	50-444-OL-1
_____)	(Onsite Emergency Planning
)	and Safety Issues)
)	

CERTIFICATE OF SERVICE

I, Stephen A. Jonas, hereby certify that on May 16, 1988, I made service of the ATTORNEY GENERAL'S REPLY TO RESPONSES OF APPLICANTS AND NRC STAFF TO AMENDED CONTENTION OF ATTORNEY GENERAL by mailing copies thereof, postage prepaid, by first class mail, or as indicated by an asterisk by Federal Fxpress to:

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