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NUCLEAR REGULATORY COMMISSION

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before the

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
PUBLIC SERVICE COMPANY OF)
NEW HAMPSHIRE et al.)
)
(Seabrook Station,)
Units 1 and 2))
_____)

Docket Nos. 50-443-OL
50-444-OL

(Off-Site EP)

APPLICANTS' RESPONSE TO OFF-SITE EP CONTENTIONS
SUBMITTED BY SEACOAST ANTI POLLUTION LEAGUE
(New Hampshire State and Local Plans)

Introduction

Pursuant to this Board's order of January 17, 1986,
the Applicants submit this response to the proposed
contentions relating to the New Hampshire state and
local offsite emergency plans submitted by Seacoast
Anti Pollution League (SAPL). Before turning to the
specific contentions proffered by SAPL, however, we set
forth some general principles governing the admission

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and litigation of contentions relating to offsite emergency planning that we believe may be of assistance to the Board.

General Principles

The function of emergency planning is to effect, under the circumstances that may be presented, aggregate dose savings to the affected population. The emergency planning requirements are not intended to impose new performance or siting criteria on nuclear power plants, and they do not require, as a condition of licensure, a demonstration of absolute assurance of perfect safety. The purpose of emergency planning is to have in place means and methods of coping with emergencies in order to keep offsite effects to as low a level as is reasonably possible given the facilities at hand. Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 1 and 3), CLI-83-10, 17 NRC 528, 533 (1983).

The proposition that emergency plans will be judged for adequacy against a certain type of accident, and in particular one involving a prompt offsite release of radioactive effluent, is likewise contrary both to established law and to the fundamental precepts on

which emergency planning is based. The theory upon which the regulations were based is that the planners should consider a spectrum of accidents; the key requirement is that emergency plans be flexible and capable of accomplishing a reduction of adverse effects to the greatest extent reasonably practicable given existing resources. As the Commission has stated:

"Since a range of accidents with widely differing offsite consequences can be postulated, the regulation does not depend on the assumption that a particular type of accident may or will occur. In fact, no specific accident sequences should be specified because each accident could have different consequences both in nature and degree. Although the emergency planning basis is independent of specific accident sequences, a number of accident descriptions were considered in development of the Commission's regulations including the core melt accident release categories of the Ractor Safety Study (WASH-1400)."

San Onofre, supra, 17 NRC at 533.

A corollary is that it is not a requirement that emergency plans either directly focus on anyone's notion of the "worst case" accident, or that they demonstrate that, in the event of the "worst case," no member of the public will be affected. "NUREG-0654 does not require an adequate response for the 'worst possible accident' at [a nuclear power plant.] It provides that the worst possible accident be taken into

consideration in the planning basis for the provisions of NUREG-0654." Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-85-12, 21 NRC 644, 888 (1985). See also Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1243-44, aff'd, ALAB-819, 22 NRC 681 (1985). Neither is it either required or appropriate for evacuation time estimates to be based upon the worst possible combination of events. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), CLI-85-15, 22 NRC 184, 188 (1985) (immediate effectiveness ruling); Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1244 (1985), aff'd, ALAB-819, 22 NRC 681 (1985). Worst case "scenarios in evacuation time estimates are of no usefulness to decisionmakers, Limerick, LBP-85-14, supra, 21 NRC at 1244, and overly conservative estimates are counterproductive, id. at 1243.¹

¹NUREG-0654 calls for the calculation of evacuation time estimates for at least two scenarios: normal and adverse weather. It is neither required nor feasible

A concomitant principle is that evacuation time estimates are not required to be prepared with absolute precision or to demonstrate that evacuation can be completed within any given period of time. Cincinnati Gas & Electric Co. (Wm. H. Zimmer Nuclear Power Station, Unit No. 1), ALAB-727, 17 NRC 760, 770 (1983); Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit No. 2), ALAB-730, 17 NRC 1057, 1069 n.13 (1983). NRC regulations do not require that "evacuation could always be one step ahead of the plume." Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant, Units 1 and 2), LBP-84-29B, 20 NPC 389, 394 (1984). Thus, any contention that NRC regulations require evacuation of the Seabrook plume EPZ or some portion thereof to be completed within some certain time is not a subject for litigation in ASLB proceedings.

to calculate estimates for every possible permutation of conditions. In selecting the adverse scenario for calculation, two criteria are intended: the scenario must be severe enough to give an indication of the sensitivity of the time estimate to adverse conditions, on the one hand, while still of a nature that occurs sufficiently frequently in the area in question to be of usefulness to decisionmakers, on the other. Carolina Power and Light Co. (Shearon Harris Nuclear Power Plant), LBP-85-27A, 22 NRC 207, 225-26 (1985).

The Commission's emergency planning regulations were not intended to require the adoption of extraordinary measures to deal with perceived inadequacies of local facilities. To quote the Commission again:

"It was never the intent of the regulation to require directly or indirectly that a state and local governments adopt extraordinary measures, such as the construction of additional hospitals or recruitment of substantial additional medical personnel, just to deal with nuclear plant accidents. The emphasis is on prudent risk reduction measures. The regulations does not require dedication of resources to handle every possible accident that can be imagined. The concept of the regulation is that there should be core planning with sufficient planning flexibility to develop a reasonable ad hoc response to those very serious low probability accidents which could affect the general public."

San Onofre, supra, 17 NRC at 533.

The regulatory standards that govern the acceptability of state and local emergency plans are contained in 10 C.F.R. § 50.47 and Part 50, Appendix E. Additional guidance is contained in the emergency planning guidance published by the Staff and FEMA, NUREG-0654. NUREG-0654, however, is not a regulation and does not impose regulatory standards; while the criteria contained therein, if adhered to, will demonstrate compliance with the regulations, emergency planners are free to comply with the regulations by

utilizing methods, means and approaches other than those found in NUREG-0654. Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), ALAB-698, 16 NRC 1290, 1298-99 (1982); Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), ALAB-819, 22 NRC 681, 709-10, aff'g LBP-85-14, 21 NRC 1219, 1228 (1985).

Findings in the emergency planning area are intended to be predictive in nature. The governing regulation, 10 CFR § 50.47(a)(1), does not require that emergency plans be "final" or have been formally "adopted" so long as the planning process is sufficiently advanced as to permit the Board to have reasonable assurance that there are no barriers to emergency planning implementation or to a satisfactory state of emergency preparedness that cannot feasibly be removed. Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), CLI-85-13, 22 NRC 1 (1985) (immediate effectiveness ruling); Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-781, 20 NRC 819, 834-35 & n.58 (1984); Louisiana Power and Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-732, 17 NRC 1076, 1103-04

(1983); Cincinnati Gas & Electric Co. (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-717, 17 NRC 346, 380 (1983); Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), LBP-84-28, 20 NRC 129, 131-32 (1984); Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-84-18, 19 NRC 1020, 1028 (1984); s.c., LBP-85-14, 21 NRC 1219, 1230 (1985). Neither is there any requirement of awarding FEMA findings before hearings are held or findings made. Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), ALAB-813, 22 NRC 59, 79 (1985); Limerick, LBP-85-14, supra, 21 NRC at 1232.

It is well established, both in the records of history and the decisions of this agency, that people tend to behave rationally and to follow instructions during a real emergency. "Documented history of disaster responses shows that evacuations are generally orderly. The historic record indicates that evacuating individuals ordinarily obey traffic officers at traffic control points and traffic access control points. It would be useless to make any other planning assumption." Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC

1219, 1254, aff'd, ALAB-819, 22 NRC 681 (1985).

Similar historic records show that in a real emergency, public officials and emergency workers tend to do their duties. E.g., Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1273-74, 1290, 1292-95, aff'd, ALAB-819, 22 NRC 681 (1985); Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant, LBP-25-27A, 22 NRC 207, 230 (1985). In light of this record, any proffered contention to the effect that public officials or emergency workders will not perform their assigned duties must, in order to raise a litigable issue, be supported by a particularized basis for asserting that the normal experience doesn't apply in this case.

Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-84-18, 19 NRC 1020, 1048 (1984).

See also Philadelphia Electric Co. (Limerick Generation Station, Units 1 and 2), CLI-85-15, 22 NRC 184, 187 (1985) (immediate effectiveness review).

In short, the standard by which any emergency plan is to be judged is whether or not it represents the best efforts of knowledgeable people through the use of reasonably available facilities to reduce to the

maximum extent reasonably possible the adverse effects on the public health and safety which will result from offsite releases resulting from a spectrum of accident scenarios. The guiding principles, as recently summarized by a Licensing Board, are thus:

"The purpose of emergency planning is to achieve dose savings to the general public in the event that radioactive material is accidentally released off site. There is no minimum standard of public radiation dose which must be met in emergency planning.

"Absolute protection of the public against all radiation doses cannot be guaranteed and is not required for all possible accident scenarios.

"The emergency response plan should not be developed for any specific preconceived accident sequence. It should instead be framed to cope with a spectrum of accident possibilities including the worst accidents.

"There is no standard time required to be met for evacuation in a radiological emergency. Estimates are necessary to determine accurately the actual time required for evacuation. These estimates are needed to aid in protective action decisionmaking.

"No massive investment of resources (stockpiling of supplies or construction of hospitals) are required for emergency planning. We will apply a practical standard of efficiency of utilization of existing resources (such as roadways and manpower) in evaluating the acceptability of the evacuation plan."

Long Island Lighting Co. (Shoreham Nuclear Power
Station, Unit 1), LBP-85-12, 21 NRC 644, 782 (1985).

Response to Specific Contentions

Contention 1

SAPL Contention No. 1 is:

"The New Hampshire state and local radiological emergency response plans fail to provide 'reasonable assurance' because they do not set out how emergency vehicles (buses, vans and EMS vehicles) will be able to make their way into the Emergency Planning Zone (EPZ) to their respective destinations against a potential outgoing flow of evacuating vehicles. No route maps are provided from the locations from which the buses, etc. are traveling to their destinations in the EPZ. Therefore, these plans do not meet the requirements of 10 C.F.R. § 50.47(a)(1), § 50.47(b)(3) and NUREG-0654 II. J. 10.K."

This contention is utterly without stated basis.

It assumes that the emergency vehicles would be ordered on to routes which are one way against them. There is no basis for such an assumption. There is no requirement in the regulations or suggestion in NUREG-0654 that route maps be provided for incoming emergency vehicles. All two-way roads used as evacuation routes will be preserved as two-way roads. The portion of NUREG-0654 cited by SAPL, ¶ II.J.10.k. requires inclusion within the plans of:

"Identification of and means for dealing with potential impediments (e.g. seasonal impassibility of roads) to use of evacuation routes, and contingency measures."

This guidance does not support a requirement that the plans contain advance routing for every emergency vehicle. The contention should be excluded.

Contention 2

SAPL Contention No. 2 is:

"Contrary to the requirements of 10 C.F.R. 50.47(a)(1), 10 C.F.R. Part 50, Appendix E, Sections IV.A.8. and IV.D.3., and NUREG-0654 II.A.2.a and b, II.A.3 and II.E.1 and 3., the responsibilities, authorities and concept of operations between the State of New Hampshire and the State of Massachusetts in ordering any protective action have not been sufficiently defined nor set forth in a written agreement."

There is no requirement for the type of agreement SAPL contends for in the regulations or NUREG-0654. Indeed it would likely be a breach of his or her duties for a governor to cede control over the ordering of protective action within his or her state to another governor. In the NUREG-0654 glossary where "State (organization)" is defined, it is stated:

"There may be more than one state involved, resulting in application of the evaluation criteria separately to more than one State. To the extent possible, however, one State should be designated lead." NUREG-0654 at Appendix 5 at 5-1.

This guideline has specifically been held to be permissive in nature only and not an absolute

requirement. Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 NRC 933, 965 (1984).

There is simply no regulatory requirement for the agreement contemplated by the contention and therefore no basis. The contention should be excluded.

Contention 3

SAPL Contention No. 3 is:

"The New Hampshire State and host community plans do not provide for sufficient capacity in the New Hampshire community reception centers for registration and monitoring within about 12 hours all residents and transients arriving at the relocation centers. Therefore, the New Hampshire State, local and host plans do not meet the requirements of 10 C.F.R. § 50.47(a)(1), § 50.47(b)(8), § 50.47(b)(9), § 50.47(b)(10), § 50.47(b)(12) and NUREG-0654 II.J.12."

As a basis for this contention, SAPL recites that the total population of the 17 New Hampshire towns, at least a portion of which are in the Seabrook EPZ, is 191,849 and it is then stated that "No estimates are given of the numbers of evacuees who can be registered and monitored within any given time frame at [the host community reception centers]." No such estimate is required. What is given in the host plans is a description of the equipment which will be used to monitor and the method of registration. Eighty-one

monitors at least are available in a total of five host communities (Nashua simply describes the type of equipment), see local plans at p. II-11, and in each case there is a commitment from the State to supply supplemental equipment as required. Estimates of how many people will show up at each center are not required and, of course, would be dependent upon which towns were told to evacuate and under what circumstances. Such an estimating exercise would be an exercise in futility and a waste of time. The contention should be excluded.

Contention 4

Contention No. 4 is:

"The New Hampshire, State, local and host community plans fail to meet in adequate fashion the requirements that provisions be made for medical treatment of contaminated injured individuals as set forth at 10 C.F.R. § 50.47(b)(12) and NUREG-0654 II.L.1. and L.3."

In its statement of basis, SAPL admits that the plan currently lists the medical facilities capable of handling the "contaminated injured." Such a listing combined with a commitment to comply with the Commission's response to the Guard decision is all that is required. Philadelphia Electric Co. (Limerick

Generating Station, Units 1 and 2), CLI-85-15, 22 NRC 184, 186 (1985). If the thrust of this contention is, as suggested in the statement of basis, that more hospitals are required, i.e. that there are not enough hospitals, that too is not litigable. As noted above, the Commission has made clear that compliance with its emergency planning regulations does not require construction of new hospitals. CLI-83-10, supra, 17 NRC at 533. The contention should be excluded.

Contention 5

SAPL Contention No. 5 is:

"The New Hampshire State and local plans are deficient in that they do not ensure that there will be adequate personnel or the timely arrival of personnel trained in radiological monitoring in the plume exposure EPZ following a release of radiation from Seabrook Station. Neither is there assurance that monitoring can be carried on for the required time frame. Therefore, the requirements of 10 C.F.R. § 50.47(a)(1), § 50.47(b)(1), § 50.47(b)(8), § 50.47(b)(9), and NUREG-0654 II.I.7, I.8. and I.11 and II.A.4. are not met."

SAPL claims as a basis for this contention that the plan states that field monitoring will not commence in time to assure that protective action can be timely ordered. SAPL errs in assuming that field monitoring is a prerequisite to ordering protective action.

Protective action decisions are based upon projections

obtained from the utility. NHRERP § 2.6.7. As stated at p.2.5-3 of NHRERP the purpose of field monitoring is "to verify dispersion calculations, to support utility monitoring activities, and to determine the location and nature of actual plume impacts" (emphasis added). It does not provide input for protective actions decision making. The contention is without basis and should be excluded.

Contention 6

SAPL Contention No. 6 is:

"The New Hampshire State and local plans do not meet the requirement that there be maps showing population distribution around the nuclear facility as required at NUREG-0654 J.10.b."

The basis of this contention is an alleged major inconsistency in certain population figures set forth in Appendix E of the State Plan. To begin with it is asserted that "Figure 2" in the local plans show the cumulative resident population at 105,968 as compared to the 140,857 total obtained by adding the resident population figures for each Town listed in Table 1 of the local plans." SAPL misreads the document. Figure 2 shows population out to the 10 mile "ring;" Table 1 shows populations (including those persons outside the

10 mile ring) for all towns wholly or partially within 10 miles of Seabrook. The two are consistent; Table 1 covers a bigger geographic area than does Figure 2. The same is true for the apparent discrepancy between Table 1 and Figure 2 for peak populations. It is true that there are slight discrepancies between the numbers used in the clear time estimate maps in Appendix E of the State plan at p. E-9 (103,645) and those in Figure 2 of the local plans (105,968) of 2,323; and that adding the resident and peak figures from pp. E-9 and E-14 in the state plan (246,701) gives a figure some 4,808 greater than peak population shown on Figure 2 of the local plans (241,983). However, these differences, obviously accountable by virtue of the fact that the data bases used were slightly different is hardly a major inconsistency which would render the maps useless for their intended function which is to show the "population distribution" by "evacuation areas." NUREG-0654 § II.J.10.6.b. The contention is without basis and should be excluded.

Contention 7

SAPL Contention No. 7 is:

"The New Hampshire State and local plans fail to meet the requirements of 10 C.F.R. § 40.47(b)(11) and NUREG-0654 K.5.b. because there has been no showing that the means of radiological decontamination of emergency personnel, wounds, supplies and equipment have been established. Further, there has not been a clear showing that adequate means for waste disposal exist."

The cited standard in NUREG-0654, § II.K.5.b.

requires that each organization:

"as appropriate, should establish the means for radiological decontamination of emergency personnel, wounds, supplies, instruments and equipment, and for waste disposal."

SAPL characterizes one statement as the "entire" description of decontamination centers. SAPL Contention at 8. This is not accurate. The means of decontamination are described on p. 2.7-10; the local plans state that the state facilities will be located at the reception centers and Appendix F of the DPHS procedures describes the decontamination procedures in detail. The same appendix has floor plans for all the local decontamination centers except Durham, directions to them and other details such as floor plans for the locker rooms being used, numbers of showers, etc. No more is required to satisfy the requirement. SAPL's

attempt to show basis by a truncated description of what in fact is in the plans must fail. The contention should be excluded.

Contention 8

SAPL Contention No. 8 is:

"The New Hampshire State and local plans fail to meet the requirements that there be adequate manpower and 24-hour per day emergency response, including 24-hour per day manning of communications links, as required by 10 C.F.R. § 50.47(a)(1), § 50.47(b)(1), § 50.47(b)(2), and NUREG-0654 II.A.1.e, II.A.4. and II.F.1.a."

Applicants do not object to admission of this contention.

Contention 9

SAPL Contention No. 9 is:

"The New Hampshire State plan and the local plans for Seabrook, Exeter and Kingston fail to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency because these plans are incomplete. Therefore, they do not satisfy the requirement of 10 C.F.R. § 50.47(a)(1), NUREG-0654 II.J.8 and II.J.10,1."

As worded this contention is not litigable. A simple assertion that a plan is not complete is not a properly specific contention. See Cleveland Electric Illuminating Co.: (Perry Nuclear Power Plant, Units 1 & 2), LBP-84-28, 20 NRC 129 (1984). SAPL makes no

assertion that any insurmountable barrier to finishing the plans exist.

Contention 10

SAPL Contention No. 10 is:

"The New Hampshire State plan fails to meet the requirements set out at 10 C.F.R. § 50.47(b)(16) and NUREG-0654 II.P.3, II.P.4., II.P.5. and II.P.10. because all of the lists of names for the Seabrook Station EPZ local communities listed in Appendix K of the state plan are seriously outdated."

This is not a matter for litigation absent a showing that the State, having had these errors brought to its attention, will not correct the plan. The contention should be excluded.

Contention 11

SAPL Contention No. 11 is:

"The New Hampshire State and local radiological emergency response plans fail to meet the requirements of 10 C.F.R. § 50.47(a)(1), § 50.47(b)(10) and NUREG-0654 II.J.9. in that the Protective Action Guides shown in Table 4 of each of the local plans have no clear technical bases."

NUREG-0654 II.J.9. relied upon by SAPL states in its entirety as follows:

"Each State and local organization shall establish a capability for implementing protective measures based upon protective action guides and other criteria. This shall be consistent with the recommendations of EPA regarding exposure resulting from passage of

radioactive airborne plumes, (EPA-520/1-75-001) and with those of DHEW (DHHS)/FDA regarding radioactive contamination of human food and animal feeds as published in the Federal Register of December 15, 1978 (43 FR 58790)."

There is no requirement that the plan recite the "technical basis," clear or otherwise, only that they be consistent with the cited materials. Table 4 in each local plan is wholly consistent with the EPA recommended PAGS. The contention is wholly without basis in law and fact and should be excluded.

Contention 12

SAPL Contention No. 12 is:

"The plans are insufficient to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. Specifically the plans do not analyze or account for behavioral variations among members of the public in the event of a radiological emergency. Such considerations are required by 10 C.F.R. § 50.47(a)(1) as interpreted by NUREG-0654 App. 4 IV B. (p. 4-10)."

The alleged basis for this contention is that there may be panic and this should somehow be addressed in the emergency plan. There is no such requirement in the regulations. A number of NRC adjudications have considered contentions to the effect that wholesale panic will operate seriously to undermine the

protective action efforts under a radiological emergency response plan. The uniform finding in each case has been that all historical evidence points to no panic during evacuations and that the assumption of orderly evacuation is warranted and appropriate. E.g., Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-14, 21 NRC 1219, 1254 (1985); Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant), LBP-85-27A, 22 NRC 207, 229 ff (1985). It is submitted that in light of the growing line of authority, "panic" contentions should be excluded at least absent a particularized showing that the citizens of southeastern New Hampshire are, for some specific reason, more prone to panic than their fellow citizens throughout the United States.

Contention 13

SAPL Contention No. 13 is:

"The plans are insufficient to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency as required by 10 C.F.R. § 50.47(a)(1). Specifically, the plans neither discuss nor account for behavioral variations among designated emergency personnel that would impair or extinguish the ability to implement the plans."

This is another frequently asserted "panic" contention that emergency workers, public officials, and teachers will not do their duty. A generalized contention to this effect should be excluded, Philadelphia Electric Co. (Limerick Generating Station, Units 1 & 2), LBP-84-18, 19 NRC 1020, 1048 (1984), especially where it is wholly lacking in specifics. Philadelphia Electric Co. (Limerick Generating Station, Units 1 & 2), CLI-85-15, 22 NRC 184, 187 (1985).

Contention 14

SAPL Contention No. 14 is:

"Procedures to provide early notification and clear instruction to the populace within the plume exposure pathway EPZ required by 10 C.F.R. § 50.47(a)(5) are inadequate in that the plans do not provide for bilingual messages for the large numbers of French-speaking individuals who are often in the area in large numbers."

SAPL's vague reference to "local experience" as its basis for this contention is not enough we submit. This Board can officially notice the fact that the overwhelming majority of French-Canadians are in fact bilingual. The case SAPL makes for fluent French speaking emergency workers can equally be made for any other language in the world on the theory that on a given day a busload of tourists from anywhere may be at

the beach. No such extraordinary efforts are required by NRC regulations. "The plans cannot be required to be specific to every individual, or there would be no acceptable plans at all." Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-84-18, 19 NRC 1020, 1034 (1984).

Contention 15

SAPL Contention No. 15 is:

"Because there are no specific letters of agreement included in either the New Hampshire State plan or the local plans, the plans fail to meet the requirements of 10 C.F.R. § 50.47(a)(1), § 50.47(b)(3) and NUREG-0654 II.A.3 and II.B.9."

NUREG-0654 II.B.9 does not apply to state and local plans. NUREG-0654 at p. 39. Thus, as worded, the contention is inadmissible. NUREG-0654 II.A.3 does apply. However absent a basis for contending that in fact there exists an obstacle to conclusion of the necessary agreements, no litigable issue is presented. See Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 & 2), LBP-85-35, 22 NRC 514, 525-26 (1985); Philadelphia Electric Co. (Limerick Generating Station, Units 1 & 2), LBP-85-14, 21 NRC 1219, 1366-68 (1985).

Contention 16

SAPL Contention No. 16 is:

"The New Hampshire State and local plans do not make adequate provisions for the sheltering of various segments of the populace in the EPZ and therefore the plans fail to meet the requirements of 10 C.F.R. § 50.47(a)(1), § 50.47(b)(10) and NUREG-0654 H.J.10.a. and m."

A review of the basis for the broad and unspecific contention indicates that the contention is predicated upon two erroneous premises. The first is that there must be a demonstration of adequate shelter for all (especially in a "fast breaking" accident scenario). This is not the law. As pointed out earlier, the Commissions' regulations do not require extraordinary measures such as construction of new facilities in areas surrounding nuclear plants. The second erroneous premise is that the regulations, as interpreted by NUREG-0654, require a sheltering adequacy survey or evaluation. This interpretation of the regulations has been flatly rejected. Philadelphia Electric Co. (Limerick Generating Station, Units 1 & 2), LBP-85-14, 21 NRC 1219, 1303 (1985).

Contention 17

SAPL Contention No. 17 is:

"The New Hampshire State and local plans fail to make adequate provisions for prompt communications among principal response organizations to emergency personnel and to the public. Therefore, the plans do not meet the requirements of 10 C.F.R. § 50.47(b)(1), § 50.47(b)(5) and (b)(6) and NUREG-0654 Planning Standard F."

A review of the basis for this contention reveals that in reality it is a contention that the commercial telephone system may not be reliable for communicating during an emergency. Just this type of broadside attack was considered and rejected for litigation by the Licensing Board in Philadelphia Electric Co. (Limerick Generating Station, Units 1 & 2), LBP-84-18, 19 NRC 1020, 1063 (1984). The numerous systems which provide redundancy for communications in an emergency are described in NHREP § 2.2.1. As stated by the Licensing Board in LBP-84-18, supra, the contention "put[s] forward no basis for thinking that this diverse and redundant communications systems could, under some adverse circumstance, become so impaired on all levels that it could not operate effectively." Id. at 1063.

Contention 18

SAPL Contention No. 18 is:

"The local New Hampshire community plans of Brentwood, Exeter, Portsmouth, Seabrook and New Castle significantly miscalculated the numbers of non-auto owning population based on the percentages of non-auto population given in each of the above-stated plans. No buses are provided in the plans for the individuals who are not accounted for due to these miscalculations. Therefore, these plans fail to meet the requirements of 10 C.F.R. § 50.47(a)(1), § 50.47(b)(8), NUREG-0654 II.J.10.g and NUREG-0654 Appendix 4, p. 4-3."

This contention is based upon false premises. SAPL in its statement of basis starts out by saying "The estimate of non-auto owning individuals in the Town of Exeter plan is set at 18%" (emphasis added). It goes on to point out that 18% of Exeter's population gives a number 327 more than the 1,798 people planned for. The problem is that what the plan says (Exeter Plan at II-30) is: "According to census data, approximately 18% of the households in Exeter are non-auto-owning." The individuals living in a certain 18% of the households do not equate exactly to 18% of the population. SAPL apparently made the same mistaken assumption on reading all the plans. The absolute number in each local plan came from NHRERP App. E, E-8. SAPL has given no basis

for questioning their accuracy. The contention should be excluded as being without basis.

Contention 19

SAPL Contention No. 19 is:

"The plans are inadequate because they fail to address the impacts of egress route flooding, excessive snow accumulation, fog, rain and icing of roadways upon an orderly evacuation. The plans cannot reasonably assure that adequate measures can and will be taken in the event of a radiological emergency, as required by 10 C.F.R. § 50.47(a)(1), without addressing the excessive snow, fog, flooding and icing issues. NUREG-0654 II.J.10.K requires that the identification of and means for dealing with potential impediments to use of evacuation routes be addressed."

The NHREP at p. 2.6-10 states:

"The New Hampshire Department of Public Works and Highways is prepared to use its maintenance equipment to maintain [the evacuation] routes during adverse weather and as unforeseen impediments to evacuation occur. Appendix G contains a listing of the equipment available to implement this task."

No more is required by NUREG-0654 II.J.10.k. The Board can take official notice of the fact that New Hampshire is a skiers paradise, and that its road crews and their ability to handle snow and ice are the envy of all citizens of Massachusetts.

SAPL's suggestion in its statement of basis that alternate routes must be designated is legally unsound.

See Kansas Gas & Electric Co. (Wolf Creek Generating Station, Unit 1), LBP-84-26, 20 NRC 53, 65 (1984).

Contention 20

SAPL Contention No. 20 is:

"The State and local plans fail to assure that adequate measures can and will be taken to protect the health and safety of the public in the event of a radiological emergency as mandated by 10 C.F.R. § 50.47(a)(1) and NUREG-0654 II.J.10.k. Specifically, the plans fail to address the impact of limited gasoline supplies within the EPZ upon an orderly evacuation. NUREG-0654 II.J.10.k. requires that contingency measures for dealing with impediments to use of the evacuation routes be developed."

Other than SAPL's bold assertion of it, SAPL gives no evidentiary basis for "a limited gas supply available to the general public should full evacuation be ordered." To begin with almost all cars will have some gas in them. The maximum anyone will have to drive is about 10 miles. There is no basis for assuming "numerous vehicles" stall out for lack of fuel.

As far as blockage is concerned, a car can be pushed off the road. The contentions should be excluded as being without basis.

Contention 21

SAPL Contention 21 is:

"The plans do not provide for the equipping of the evacuation vehicles with two-way radios so that the emergency personnel involved are kept completely informed of changing conditions. The plans do not designate alternate evacuation routes to be used by contracted transportation companies in the event that reasonably foreseeable occurrences (i.e. wind shift, precipitation, traffic breakdowns) necessitate a change in the primary evacuation route during an evacuation. The plans, therefore, do not meet the requirements of 10 C.F.R. § 50.47 (a)(1), (b)(5), (b)(6) and NUREG-0654 F.1.e. and E.2."

As noted earlier there is no legal requirement for designating alternative evacuation routes. LBP-84-26, supra. Nor is there any requirement that all evacuation vehicles have two-way radios. The contention is without legal foundation.

Contention 22

SAPL Contention 22 is:

"The Seabrook Station 10 mile EPZ radius is not sufficiently large to provide reasonable assurance that the public can and will be protected in the event of a radiological emergency. Onshore winds are frequently strong enough to cause a drifting effect which could expose people outside the present EPZ to a radioactive plume. Yet, individuals beyond 10 miles would receive no warning to shelter and would not be in a position to effect a timely evacuation given the likelihood that evacuation routes (I-95, Route 1) would be filled to capacity. There has been no study of traffic geographics beyond the 10-mile zone.

Therefore, the New Hampshire State and local RERP's do not meet the requirements of 10 C.F.R. § 50.47 (a)(1) and § 50.47 (c)(2)."

Expansion of the Seabrook plume EPZ beyond the usual 10 miles under 10 C.F.R. § 50.47(c)(2) may not be premised on meteorology inasmuch as that is not one of the considerations listed in the regulation. 10 C.F.R. 50.47(c)(2). See also Duke Power Co. (Catawba Nuclear Station, Units 1 & 2), LBP-84-37, 20 NRC 933, 984-87 (1984).

Contention 23

SAPL Contention 23 is:

"The New Hampshire State and local RERP's do not meet the requirements of 10 C.F.R. § 50.47 (a)(1), § 50.47(b)(7) and NUREG-0654 II.G.1 and its subsections because no samples of the material that is to be disseminated to the public to inform them of how they will be notified and what their actions should be in an emergency are provided in the plans."

These samples are in the process of being distributed. If SAPL presses this contention, despite the distributed materials, SAPL should be required to state specifically what deficiencies SAPL is alleging.

Contention 24

SAPL Contention 24 is:

"The State and local RERP's do not adequately address the methods for protecting the public from consumption of contaminated food and water which originate within the 50 mile ingestion pathway EPZ. Therefore, the State and local plans fail to meet the requirements of 10 C.F.R. § 50.47 (a)(1), § 50.47 (c)(2) and NUREG-0654 II.J.11."

To begin with, NUREG-0654 II.J.11 does not apply to local plans. NUREG-0654 at 64. There is no legal requirement of cross referencing to Maine and Massachusetts. The plan does set forth the criteria for deciding whether dairy animals should be put on stored feed; it is when it is determined that the PAG for milk might be exceeded. NHREP § 2.6.8 and Fig. 2.6-7. In this same section are also the procedures to be taken in imposing protection such as condemnation, etc. There is no basis asserted for why there is some obstacle to getting the necessary list of facilities outside the EPZ. The Contention should be excluded.

Contention 25

SAPL Contention 25 is:

"The New Hampshire State and local radiological emergency response plans do not reasonably assure that the public health and safety will adequately be protected because the provisions for protecting those persons whose mobility may be

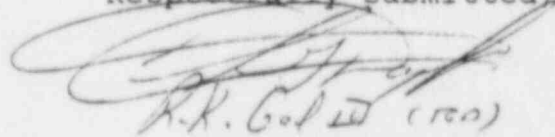
impaired due to such factors as institutional or other confinement are patently lacking. Therefore, the plans do not meet the requirements of 10 C.F.R. § 50.47 (a)(1), § 50.47 (b)(8) and NUREG-0654 II.J.10.d."

Each of the plans does state that there are no identified persons in this category of concern at the time the plan was written, but the plan goes on to say that the town assumes one special needs vehicle will be needed and states how it will be obtained. No more is required. The balance of the basis statement by SAPL seeks to raise issues of detailed implementation not planning. The contention should be excluded.

Furthermore the guidance criterion (NUREG-0654 II.J.10.d) is for "means for protecting those persons whose mobility may be impaired" not necessarily evacuating them. As most of the local plans point out, persons in "institutional or other confinement" are

often in facilities which provide ideal sheltering conditions.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "R. K. Gad III", written over a horizontal line.

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Dated: March 5, 1986

CERTIFICATE OF SERVICE

DOCKETED
USNRC

I, Thomas G. Dignan, Jr., one of the attorneys for the Applicants herein, hereby certify that on March 5, 1986, I made service of the within "Applicants' Response to Off-Site EP Contentions Submitted by Seacoast Anti Pollution League (New Hampshire State and Local Plans)" 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):

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