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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

SECRETARY
INDUSTRIAL SERVICE

In the Matter of)
)
GEORGIA POWER COMPANY)
 et al.)
)
(Vogtle Electric Generating Plant,)
 Units 1 and 2))

Docket Nos. 50-424
50-425
(OL)

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NRC STAFF RESPONSE TO
APPLICANTS' MOTION FOR RECONSIDERATION OF
DENIAL OF SUMMARY DISPOSITION OF INTERVENOR'S
CONTENTION FP-2/EP-2(C) (USE OF NOAA TONE ALERT RADIOS)

I. Introduction

On April 17, 1986, Applicants filed a motion for reconsideration of the Atomic Safety and Licensing Board's April 4, 1986 "Memorandum and Order (Ruling on Motion for Summary Disposition of Intervenor's Contention EP-2/FP-2(c) (Use of NOAA Tone Alert Radios))". The Board in its April 4th Order denied "Applicants' Motion for Summary Disposition of Joint Intervenor's Contention EP-2/EP-2(c) (Use of NOAA Tone Alert Radios" which was filed on February 14, 1986. The Board ruled that there were genuine issues of fact to be heard in connection with the contention in question. Applicants, for the reasons discussed in their motion for reconsideration and based upon additional information supplied in the "Supplemental Affidavit of David N. Keest on Contention EP-2/EP-2(c)" which accompanied the motion, seeks reconsideration of the Board's Order denying summary disposition of Contention FP-2/EP-2(c).

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For the reasons set forth below and in the attached (supplemental) Affidavit of Cheryl L. Stovall, an Emergency Management Program Specialist in the Federal Emergency Management Agency, (FEMA), the NRC staff (Staff) supports Applicants' motion for reconsideration.

II. Discussion

A. Background

The background events leading to the admission of Contention EP-2/EP-2(c) are set out at pages 2-3 of Applicants' motion. Staff has reviewed Applicants' description of these events and, in order to avoid unnecessary repetition, agrees with and adopts the "background" statement set out in Applicants' motion.

F. Basis for Staff's Support of Applicants' Motion for Reconsideration

The Staff supports Applicants' motion for reconsideration of the Board's April 14, 1986 Order for the reasons set out in Applicants' motion and in the attached (supplemental) Affidavit of Cheryl L. Stovall.

As noted by Applicants (motion at page 3), the issue presented by Contention EP-2/EP-2(c), as admitted by the Board, is the use of the NOAA tone alert system versus "some other form of radio alerting system." Thus, the focus of the contention is on the question of whether or not some other type of tone alert radios might be preferable to NOAA tone alert radios due to the use of the NOAA system for weather emergencies. In its August 12, 1985 "Memorandum and Order (Ruling on Joint Interveners' Proposed Contention on Emergency Planning)" at page 12, the Board stated its concern as to the frequency of activation of the NOAA tone alert radios due to severe weather, and the possibility that

some members of the public might turn off their NOAA radios to avoid weather emergency broadcasts which were not applicable to their area. The "Affidavit of David N. Keast on Contention EP-2/EP-2(c)" ("Keast Affidavit"), filed in support of Applicants' motion, attempted to address those concerns.

As Mr. Keast noted in supporting Applicants' motion for summary disposition, the automatic activation of the NOAA radios within the EPZ due to weather conditions will be limited to those storm "watches" and "warnings" directly applicable to the four counties in the EPZ, as well as the Georgia counties of Screven and Jenkins. Keast Affidavit, at ¶ 7. A detailed analysis of National Weather Service data was performed. This analysis indicated that NOAA weather radios within the EPZ would be activated approximately 25 times per year (on average) due to severe weather. Keast Affidavit, at ¶ 8. Mr. Keast observed that approximately 93% of the storm watches and warnings occur between 6:00 a.m. and midnight, when any disruptive effect of a severe weather message not applicable to an individual listener would be minimized. Keast Affidavit, at ¶ 9.

As further noted by Applicants (motion at pages 4-5), in its April 4 Order, the Board acknowledged Mr. Keast's analyses and observations, but expressed the view that the percentage of storm watches and warnings between 6:00 p.m. and midnight "would be of greater relevance" due to the asserted pattern of convective storms. The Board further stated that "[i]t would not be unusual for many residents of the four rural counties in the EPZ to retire for the night in advance of midnight * * *." April 4 Order, at 10. Applicants have submitted with their

motion for reconsideration a "Supplemental Affidavit of David N. Keast on Contention EP-2/EP-2(c)" ("Keast Supplemental Affidavit"). This Affidavit, provides a 24-hour, hour-by-hour breakdown for the issuance of storm watches and warnings. Keast Supplemental Affidavit, at ¶ 3. Applicants assert that the supplemental information provided by Mr. Keast demonstrates that, even assuming an EPZ resident goes to bed as early as 9:00 p.m. and arises at 6:00 a.m., a total of only approximately four tone alert activations would occur during his sleeping hours over an entire year. Keast Supplemental Affidavit, at ¶ 3; Keast Affidavit, at ¶ 9. There is no indication, according to Mr. Keast, that the predicted automatic activation pattern for the NOAA weather radios in the Vogtle EPZ will be likely to cause any significant number of households to turn off their radios. Keast Affidavit, at ¶ 9. Mr. Keast further emphasizes that there is no reason to believe that members of the public would be more likely to retain and use some other type of radio system. Keast Affidavit, at ¶ 9.

FEMA is in accord with the information presented by Mr. Keast. The FEMA Affiant previously acknowledged "that some people may disconnect the NOAA radios". But, like Mr. Keast, the FEMA Affiant stressed that there is no indication that this is more likely to occur with NOAA radios than with some other type of tone alert system. See "Affidavit of FEMA Emergency Management Program Specialist Cheryl L. Stovall In Support of Applicants' Motion For Summary Disposition of Joint Intervenors' Contention EP-2/EP-2(c) (Use of NOAA Tone Alert Radios)" ("Stovall Affidavit"), at ¶ 7. Thus, there is no basis for the premise that NOAA tone alert radios are more likely to be turned off than other types of tone

alert radios. Applicants argue at page 6 of their motion that because Contention EP-2/EP-2(c) is limited to the use of the NOAA tone alert system versus "some other form of radio alerting system," the absence of any affirmative evidence to suggest that other types of tone alert radios are more likely to be "on" than are NOAA radios points to summary disposition of Contention CP-2/EP-2(c) in Applicants' favor. FEMA agrees. See attached Stovall Supplemental Affidavit, at ¶ 4. In the Staff's view, the information originally provided by Applicant and now supplemented by the motion for reconsideration resolves in Applicants' favor the issue admitted by the Board.

Moreover, as the Staff has previously noted, Contention EP-2/EP-2(h) dealing with residents turning off tone alert radios has become immaterial with Applicants' commitment to also provide for a 60 dBC siren system throughout the EPZ. Stovall Supplemental Affidavit, at ¶¶ 4 & 6. ^{1/} This fixed siren system is not merely a back-up for the tone alert radios but a redundant primary notification which will also provide required notification to the public. Keast Supplemental Affidavit, at ¶ 4; Stovall Supplemental Affidavit, at ¶¶ 3 & 5; Stovall Affidavit, at ¶ 7; Keast Affidavit, at ¶ 10. FEMA has concluded that the siren system and the NOAA tone alert radios combine to meet the requirements of the regulations. Stovall Supplemental Affidavit, at ¶ 5; Stovall initial

^{1/} The Commission's emergency planning regulations require that "(6) Provisions exist for prompt communications . . . to the public." 10 C.F.R. § 50.47(b). Under Section IV.D.3 of Appendix E to 10 C.F.R. Part 50, this notification system shall have a design objective "to have the capability to essentially complete the initial notification of the public within the plume exposure pathway EPZ within about 15 minutes".

Affidavit, at ¶ 8. These FEMA conclusions constitute a "rebuttable presumption on questions of adequacy and implementation capability" of emergency plans. 10 C.F.R. § 50.47(a)(2). Although the intervenors have known of the use of sirens, as well as tone alert radios since at least February 14, 1986, when Applicants filed their motion to dismiss Contention EP-2(c), intervenors have not questioned that this augmented notification system meets the requirements of the Commission's regulations. ^{2/} Thus summary disposition of the contention would be appropriate as there is no allegation, let alone evidence, that the presently proposed public notification system does not fully meet the applicable requirements of the Commission's regulations. ^{3/}

^{2/} Absent findings of a significant basis to question the FEMA conclusion a Board would seem not to have authority to question the FEMA conclusion. See generally Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), CLI-86-1, 23 NRC 1, 7 (1986) (providing that Boards may not embark on sua sponte inquiries absent "specific facts . . . indicating that there is a serious, safety, environmental, or common defense and security matter.").

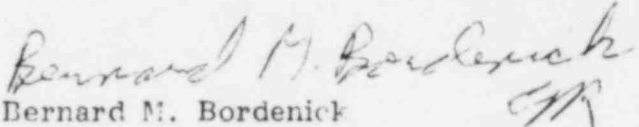
^{3/} In Carolina Power & Light Co. (Shearon Harris Nuclear Plant, LPP-86-11), 23 NRC _____ (Slip op. at 164, April 28, 1986), the Board considered a combined tone alert and siren system and concluded:

* * * Applicants' proposed use of tone alert radios in combination with the siren system and, with consideration of the effects of "informal alerting", should result in an aggregate alerting level of 98.5%. The Board

III. Conclusion

For the reasons presented above, and in the attached supplemental Affidavit of Cheryl L. Stovall, the Staff supports Applicants' April 17, 1986 motion for reconsideration.

Respectfully submitted,


Bernard M. Bordenick
Counsel for NRC Staff

Dated at Pethesda, Maryland
this 2nd day of May, 1986

(FOOTNOTE CONTINUED FROM PREVIOUS PAGE)

concludes that the independence and partial redundancy of the siren and radio systems demonstrate compliance with the requirement of "essentially 100%" alerting in 15 minutes in the first 5 miles of the Harris EPZ.