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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of)
)
GEORGIA POWER COMPANY) Docket Nos. 50-424
 et al.) 50-425
) (OL)
(Vogtle Electric Generating Plant,)
 Units 1 and 2))

NRC STAFF RESPONSE TO "APPLICANTS' MOTION FOR
SUMMARY DISPOSITION OF JOINT INTERVENORS'
CONTENTION EP-4 (IDENTIFICATION OF EXISTING
HOSPITALS FOR TREATMENT OF CONTAMINATED INJURED INDIVIDUALS)"

I. Introduction

On March 6, 1986, Applicants filed a Motion for Summary Disposition of Joint Intervenors' Contention EP-4. This contention as admitted by the Licensing Board reads as follows:

The offsite emergency response plans for Plant Vogtle do not meet the requirements of 10 C.F.R. 50.47(b)(12) as to arrangements made for medical services for contaminated injured individuals whose condition results from a radiological emergency at VEGP, because the plans do not adequately identify medical service facilities capable of treating contaminated injured individuals.

"Memorandum and Order (Ruling on Joint Intervenors' Proposed Contentions on Emergency Planning)" dated August 12, 1985 at 27.

In keeping with the Commission's Statement of Policy, "Emergency Planning," 50 Fed. Reg. 20892, 20893 (May 21, 1985), as hereafter discussed, the Board limited litigation of Contention EP-4 to the question of whether:

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The plan's naming of the hospitals that are available in Georgia to treat injured and contaminated individuals [from Georgia and South Carolina] is sufficiently confusing so that the matter is litigable. * * * The differing information as to the hospitals in the plans makes for a confusing situation as to identifying the hospitals that are to be available to treat injured and contaminated individuals.

August 12, 1985, Order at 25-26.

For the reasons presented below and in the attached Affidavit of Cheryl L. Stovall, an Emergency Management Program Specialist in the Federal Emergency Management Agency (FEMA), the NRC Staff submits that Applicants' Motion should be granted.

II. Legal Standards Governing Summary Disposition

The Staff previously set forth the applicable legal standards governing motions for summary disposition in its July 26, 1985 "Response to Applicants' Motion for Summary Disposition of Contentior. 10.3 (Cables in Multiconductor Configurations)" (at pp. 1-3). In order to avoid unnecessary repetition, that discussion is incorporated by reference herein.

III. Applicants' Motion

A. Background

The background events leading to the filing of Applicants' Motion for Summary Disposition are set forth at pp. 2-5 of Applicants' Motion. Staff has reviewed Applicants' description of these events and, except as modified in Part I above, agrees with and adopts the "background" statement set out in Applicants' Motion.

B. Basis for Staff's Support of Applicants' Motion for Summary Disposition

The Staff supports Applicants' Motion for Summary Disposition on the basis of the Commission's Statement of Policy "Emergency Planning" 49 Fed. Reg. 20892 (May 21, 1985), and the attached Affidavit of Cheryl L. Stovall, FEMA Emergency Management Program Specialist.

10 C.F.R. § 50.47(b)(1^o) requires that "arrangements are made for medical services for contaminated injured individuals". As discussed in the Board's Order of August 12, 1985, at 22-24, clarification of this provision was provided by the Commission on two occasions. Initially, the Commission determined (a) that this provision applies to both onsite and offsite individuals; (b) that "contaminated injured individuals" includes seriously irradiated members of the public; and (c) that the requirement for adequate medical arrangements for such individuals would be satisfied by providing a list of area facilities for treatment of such individuals. Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-83-10, 17 NRC 528, 536-37 (1983).

Subsequently, in Guard v. NRC, 753 F.2d 1144 (D.C. Cir. 1985), the Court of Appeals vacated a portion of the Commission's interpretation of this provision, to the extent the Commission had ruled that providing a list of treatment facilities constitutes adequate "arrangements" for medical services for offsite individuals exposed to dangerous levels of radiation. Id., at 1146, 1150. The Court afforded the NRC substantial flexibility in its reconsideration of this matter, to pursue any rational course which might range from reconsideration of the scope of the phrase "contaminated

injured individuals" to imposition of "genuine" arrangements for members of the public exposed to dangerous levels of radiation. Id., at 1146.

In response to the Guard decision, the Commission issued a "Statement of Policy" providing interim guidance to Licensing Boards and the Staff, for use until the Commission "determines how it will respond to the Court's remand." Statement of Policy, "Emergency Planning," 50 Fed. Reg. 20892, 20893 (May 21, 1985). As set forth in the Commission's Statement of Policy, "until the Commission concludes its Guard remand and instructs its boards and its staff differently," it is reasonable to limit contentions on this subject "to issues which could have been heard before the Court's decision in "Guard v. NRC," Id., at 20894. Thus, the present test of the validity of emergency response plans is to see that there is a listing of area medical facilities for the treatment of "contaminated injured individuals" on-site and off-site individuals, including seriously contaminated members of the public. ^{1/}

In an affidavit submitted herewith, Cheryl L. Stoval, the FEMA Emergency Specialist charged with reviewing emergency response planning in the area of the Vogtle nuclear plant, details her review showed that commitments have been made to revise the emergency plans for the

^{1/} NUREG-0654, Planning Standard L also sets out the applicable standard. This standard requires that "Arrangements are made for medical services for contaminated injured individuals." The medical services standard is measured by the following evaluation criteria:

L.1 - Each organization shall arrange for local and backup hospital and medical services having the capability for evaluation of radiation exposure and uptake, including assurance that persons providing these services are adequately prepared to handle contaminated individuals.

Vogtle plume exposure pathway emergency planning zone to clearly identify medical facilities capable of treating contaminated injured persons. Stovall Affidavit at ¶¶ 3-4. On the basis of the Affidavits of State and local response personnel filed in support of the Applicants' Motion for Summary Disposition, Ms. Stovall is able to conclude that the medical services requirements established in NUREG-0654 will be adequately met. Id.

Ms. Stovall notes that the affidavits attached to Applicants' Motion establish that the revised plans will clearly identify the primary and secondary hospitals for treatment of contaminated injured patients. The "Vogtle Plan" identifies Humana Hospital in Augusta, Georgia as the primary hospital to be used by Applicants for treatment of contaminated individuals from the Vogtle site with the Burke County Hospital in Waynesboro, Georgia as a back-up facility. Vogtle Emergency Plan, § L.3; DiLuzio Affidavit attached to Applicants' Motion, at ¶ 3. The "Georgia Plan" identifies Burke County Hospital as the primary medical facility for any offsite members of the general public in Georgia who might be contaminated and injured as a result of an accident at Vogtle, with the Humana Hospital in Atlanta as a back-up facility. Vogtle Emergency Plan, Appendix D (Georgia Plan), § F.1.a; Clack Affidavit attached to Applicants' Motion, at ¶¶ 3-5. In addition, the Georgia Plan provides that any offsite victim of a radiological accident at Vogtle who requires care that cannot be provided at either Burke County Hospital or Humana Hospital can be treated at Oak Ridge Hospital of the Methodist Church in Oak Ridge, Tennessee. Id. The revised plans also will eliminate reference to treatment of members of the public who were

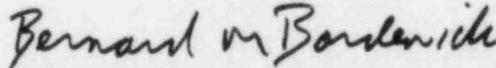
injured but not contaminated. Clack Affidavit attached to Applicants' Motion, at ¶¶ 3-4. These plan revisions will, in Ms. Stovall's view, remove any confusion about medical treatment available, and show that a proper list of area medical facilities for the treatment of contaminated injured individuals, including members of the public, will be included in the emergency response plans for the Vogtle facility. Stovall Affidavit at ¶4.

Thus it appears that Vogtle emergency response plans will meet the guidance set in the Commission's "Statement of Policy" on arrangements that should be reflected in emergency response plans for the treatment of "contaminated injured individuals", and summary depositions of Contention EP-4 is appropriate.

IV. Conclusion

For the reasons presented above, the Staff submits that the Motion for Summary Disposition of Contention EP-4 should be granted. ^{2/}

Respectfully submitted,


Bernard M. Bordenick
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 15th day of April, 1986

^{2/} Staff has reviewed "Applicants' Statement of Material Facts as to Which no Genuine Issue Exists to be Heard [etc]" and agrees with the Statement in question.