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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

April 17, 1986
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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD APR 21 11:25

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

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

OFFICE OF SECRETARY
DOCKETING BRANCH

APPLICANTS' MOTION FOR RECONSIDERATION
OF DENIAL OF SUMMARY DISPOSITION
OF INTERVENOR'S CONTENTION EP-2 EP-2(C)
(USE OF NOAA TONE ALERT RADIOS)

I. INTRODUCTION

"Applicants' Motion For Summary Disposition of Joint Intervenors' Contention EP-2/EP-2(c) (Use of NOAA Tone Alert Radios)" was filed on February 14, 1986, and was supported by the NRC Staff/FEMA. See "NRC Staff Response to 'Applicants' Motion for Summary Disposition of Joint Intervenors' Contention EP-2/EP-2(c) (Use of NOAA Tone Alert Radios)'" (March 6, 1986). Joint Intervenors did not respond to Applicants' motion. By its April 4, 1986 "Memorandum and Order (Ruling on Motion for Summary Disposition of Intervenor's Contention EP-2/EP-2(c) (Use of NOAA Tone Alert Radios))" ("April 4 Order"), the Atomic Safety and Licensing Board denied Applicants' motion. For the reasons discussed below, and based upon the additional information supplied herewith,^{1/} Applicants respectfully request

^{1/} Where a board finds, on a motion for summary disposition, that a party has not submitted necessary evidence, it is appro-

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reconsideration of the denial of summary disposition on Contention EP-2/EP-2(c).

II. BACKGROUND

As initially proposed by Joint Intervenors, Contention EP-2 alleged generally:

Applicants fail to show that provisions exist for prompt communications among principal response organizations to emergency personnel and the public as required by 10 CFR 50.47(b)(6).

More specifically, subpart (c) of EP-2 asserted:

The plan provides for notification of the public in the Plume Exposure Pathway by use of tone alert radio receivers installed in each household in the EPZ. This provision ignores the fact that these devices are often shut off permanently by residents who become aggravated by its tendency to go off frequently without reason.

See "Joint Intervenors' Revised Contention Relating to Emergency Response" (June 24, 1985), at 3.

In its August 12, 1985 "Memorandum and Order (Ruling On Joint Intervenors' Proposed Contentions on Emergency Planning)" ("August 12 Order"), the Board noted Applicants' plans to use NOAA tone alert radios and expanded upon Joint Intervenors' proposed contention, based on asserted weather patterns in the area. Specifically, the Board ruled:

In an area which is subject to frequent

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appropriate to allow that party to make a further submission. See generally Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-443, 6 N.R.C. 741, 752 (1977).

summer thunderstorms, such as the coastal plain of Georgia and South Carolina, NOAA weather radios could sound off frequently during the passage of a storm front, as weather alerts such as severe storm watches and warnings, or marine interest watches and warnings, are broadcast. Since such alerts may not affect the entire broadcast area, it is not unreasonable to expect that some residents may turn off their weather radios to stop its warning signals, especially if the area affected by the storm is not the one in which they live.

August 12 Order, at 15. Accordingly, the Board admitted Contention EP-2/EP-2(c) "for the purpose of litigating whether Applicants should be allowed to use the NOAA Weather Radio alerting system or required to utilize some other form of radio alerting system." August 12 Order, at 16.

III. ARGUMENT

As admitted by the Board, the sole issue presented by Contention EP-2/EP-2(c) is the use of the NOAA tone alert system versus "some other form of radio alerting system." The gravamen of Contention EP-2/EP-2(c) is whether 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. The concerns expressed by the Board in its August 12 Order related 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, specifically addressed those concerns.

As Mr. Keast noted, 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, ¶ 7. A detailed analysis of National Weather Service data was performed. That 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, ¶ 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, ¶ 9. These analyses and observations were not disputed.

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 opined 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. The attached "Supplemental Affidavit of David N. Keast on Contention EP-2/EP-2(c)" ("Keast Supplemental Affidavit") is directly responsive, providing a 24-hour, hour-by-hour breakdown for the issuance of storm watches and warnings.^{2/} Keast Supplemental Affidavit, ¶

^{2/} The NOAA weather radios in the Vogtle EPZ will not be activated for marine interest watches and warnings. Keast Supplemental Affidavit, ¶ 3.

3. This supplemental information demonstrates that, even assuming that 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, ¶ 3; Keast Affidavit, ¶ 9. As Mr. Keast has noted, there is no indication 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, ¶ 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, ¶ 9.

The NRC Staff/FEMA is in complete accord with the information presented by Mr. Keast. Like Mr. Keast, the NRC Staff/FEMA expert acknowledges "that some people may disconnect the NOAA radios". But, again like Mr. Keast, the NRC Staff/FEMA stresses that there is no indication that this is more likely to occur with NOAA radios than with some other type of tone alert radio system. See "Affidavit of FEMA Emergency Management Program Specialist Cheryl L. Stovall In Support of Applicants' Motion For Summary Disposition of Joint Intervenor's Contention EP-2/EP-2(c) (Use of NOAA Tone Alert Radios)" ("Stovall Affidavit"), ¶ 7.

The uncontroverted evidence of record thus demonstrates conclusively that 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. 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 total absence of any affirmative evidence to suggest that other types of tone alert radios are more likely to be "on" than are NOAA radios compels summary disposition of Contention CP-2/EP-2(c) in Applicants' favor. The information provided, as supplemented here, fully resolves the issue admitted by the Board.

While not required for the resolution of Contention EP-2/EP-2(c), Applicants' motion for summary disposition noted the fixed siren system being installed throughout the EPZ. Keast Affidavit, ¶ 10.^{3/} This system can be relied upon to alert EPZ residents who may have turned off their NOAA weather radios. Keast Affidavit, ¶ 10. As the NRC Staff/FEMA notes, the siren system is a second, fully redundant primary notification system, since it has been designed to provide the required sound coverage to all residences within the EPZ, in accordance with Appendix 3 of NUREG-0654.^{4/} Stovall Affidavit, ¶ 7; Keast

^{3/} No contentions have been filed challenging the siren system.

^{4/} The NUREG-0654 sound level criterion has been endorsed and relied upon by the Commission, followed by the nuclear industry, and applied by the NRC and FEMA in their compliance reviews of siren systems at nuclear plants nationwide, since 1980. See, e.g., Final Rule on Emergency Planning, CLI-80-40, 12 N.R.C. 636, 639 n.3 (1980); Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 N.R.C. 933, 971-72 (1984) (approving siren system designed to NUREG-0654 sound level criteria).

Affidavit, ¶ 10; Keast Supplemental Affidavit, ¶ 4.

The Plant Vogtle EPZ is thus unique. No other nuclear plant in the country has installed a public alert/notification system which provides both tone alert radio and fixed siren coverage to all residences within the EPZ. Keast Affidavit, ¶ 10. No other nuclear plant in the country has two primary public alert/notification systems -- each of which independently meets the regulatory guidance to which the systems at other nuclear plants across the country are designed.^{5/} Keast Supplemental Affidavit, ¶ 5. It is not disputed -- and, indeed, it cannot be disputed -- that such a system provides a level of alert/notification coverage to EPZ residents which is unprecedented in the nation.

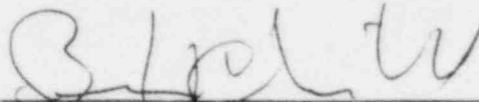
IV. CONCLUSION

For the foregoing reasons, Applicants respectfully move the Board to reconsider its April 4 Order, and to grant

^{5/} The Board questioned whether the installation of the siren system might be indicative of a lack of confidence in the tone alert system. April 4 Order, at 7. To the contrary, the tone alert system alone meets the applicable NRC/FEMA guidance, and Applicants do not question its effectiveness. Applicants, however, chose to install sirens as a redundant method of notification, to quash any doubts that Intervenor might have expressed about the ability to provide prompt public notification. The litigation of the tone alert issue in this proceeding, indeed the litigation of any issue in a proceeding, involves a degree of regulatory uncertainty. The theoretical risk, no matter how slight, that system changes might be required following the hearing could impact on the ability to obtain licensure on the required schedule, a consideration of extremely great importance for the Vogtle facility. Applicants therefore deemed it prudent to install a redundant alert notification system to unequivocally lay the issue to rest and thereby minimize the risk of delay.

Applicants' motion for summary disposition of Contention
EP-2/EP-2(c).

Respectfully submitted,



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