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Dated: April 18 1986  
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USNRC

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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before the  
ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF THE  
DOCKET

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

Docket Nos. 50-443-OL  
50-444-OL  
Off-site Emergency  
Planning Issues

APPLICANTS' RESPONSE TO SEACOAST  
ANTI-POLLUTION LEAGUE'S THIRD  
SUPPLEMENTAL PETITION FOR LEAVE  
TO INTERVENE

Introduction and General Objection

Under date of April 8, 1986, Seacoast Anti-Pollution League (SAPL) filed a Third Supplemental Petition for Leave to Intervene (SAPL Petition). This petition sets out additional contentions with respect to the New Hampshire Radiological Emergency Response Plan (NHREP), the contentions are designated: "8A", "Redrafted No. 15", "Redrafted No. 23" and new Nos. "26-30." It is claimed that all of these contentions arise out of materials served on the parties under dates of March 4 and March 5, 1986. SAPL

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Petition at 1. Prescinding from the question of whether all of these contentions in fact arise solely from more recently filed documents (see infra, pp. 8-9), the fact is that no showing of any kind has been made by SAPL in conformity with 10 CFR § 2.714(a)(1). The intervenor has the burden of satisfying the standards for late intervention. Duke Power Co. (Perkins Nuclear Station, Units 1, 2 and 3), ALAB-615, 12 NRC 350, 352 (1980). Those standards are applicable even where the late-filed contention arises out of new documents. Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), CLI-83-19, 17 NRC 1041, 1045 (1983), rev'g in part ALAB-687, 16 NRC 460 (1982). It may be that this burden would not have been difficult to carry; but SAPL has not even made the attempt. Thus, while we address the contentions individually below, we submit that all of the contentions in the SAPL petition should be rejected for failure to comply with 10 CFR § 2.714(a)(1).<sup>1</sup>

Contention 8A

SAPL Contention 8A is:

"The New Hampshire Compensatory Plan fails to meet the requirements that

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<sup>1</sup> Where the tenderor of a late-filed contention does not even address the late-filed criteria, the Board is not required to engage in an extended consideration as to how those criteria might, had they been confronted, have been resolved. See Boston Edison Company (Pilgrim Nuclear Power Station), ALAB-816, 22 NRC 461, 466-68 (1985).

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), NUREG-0654 II.A.1.e., II. A.4., and II. F.1.a."

Applicants have no objection to the admission of this contention in addition to the general objection set forth in the "Introduction and General Objection" above, provided that it is limited to the basis stated.

Redrafted SAPL Contention No. 15

Redrafted SAPL Contention No. 15 is:

"The letters of agreement that have been submitted by the N.H. Civil Defense Agency in Volume 5 of the State plan fail to meet the requirements of 10 C.F.R. §50.47(a)(1), §50.47 (b)(1), §50.47(b)(3), §50.47 (b)(12), Appendix E. II. B. and NUREG-0654 II.A.3., II C.4., and II. P.4. because they do not demonstrate that adequate arrangements for requesting and effectively using assistance resources have been made, that the emergency responsibilities of the various supporting organizations have been specifically established, that each principal response organization has staff to respond or to augment its initial response on a continuous basis, or that agreements are being reviewed and certified to be current on an annual basis as is required."

A number of specific "reasons" are given as the basis for this contention. First, it is pointed out that some of the agreements apparently are not signed yet. That is a detail for the Staff to deal with outside the scope of the litigation. See Louisiana Power and Light Co. (Waterford

Steam Electric Station, Unit 3), ALAB-732, 17 NRC 1076, 1105-06 (1983). The second reason is that there are not letters of agreement with the municipalities in the EPZ or the host municipalities. No such letters of agreement are necessary in this case because the plan is New Hampshire's plan and New Hampshire is the planning agency. The criteria referred to (NUREG-0654 II.C.4) is applicable only when a local entity has independent authority and responsibility. The third reason is that the state police compact is venerable. The compact is a law; it is current and it governs relations among the state's police force in all emergencies for certain purposes. The fourth reason is a lack of agreements with school administrative units, schools, teachers, owners of towing companies, day care centers, nursing homes, Rockingham County Dispatch and bus drivers. Individual agreements with teachers and bus drivers are not required; some of these entities (school, day care centers, nursing homes, etc.) are not entities that have to supply services but rather are entities which comprise part of the population to be protected; and finally, some of them (school administrative units, Rockingham County Dispatch) have duties covered by law and therefore no letters of agreement is required, Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), LBP-85-141, 21 NRC 1219, 1366 (1985). Further, there is no allegation of some obstacles which exist to obtaining such,

if any, agreements as are required. See Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant, Units 1 and 2), LBP-84-293, 20 NRC 389, 408 (1984). The fifth reason is that some of the letters do not, to the satisfaction of SAPL, spell out in sufficient detail the obligations of the parties thereto. The letters are not contracts and are not required to have the level of detail SAPL demands. LBP-85-14, 21 NRC at 1273, 1367. SAPL complains that some letters of agreement are "extraneous" in SAPL's judgment; the answer to that is "so what"! It presents no litigable issue. The contention quarrels with details and demands a degree of commitment not required. It should be rejected.

Redrafted SAPL Contention No. 23

Redrafted SAPL Contention No. 23 is:

"The New Hampshire State and local RERP's and the New Hampshire Compensatory Plan 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 the samples of draft materials that have been prepared fail to disseminate adequate educational information on radiation hazards from nuclear plants and an adequate description of the protective measures that should be taken, and, in the case of the New Hampshire Compensatory Plan, appropriate contacts for additional information."

As is apparent from the statement of basis, SAPL would like the public information calendar to be a propaganda statement for SAPL's particular view of the safety of

nuclear power. No such statement is required. With respect to the concern about non-participating towns, if that attitude continues the problem can be handled by a license condition that the brochures reflect the fact that certain town officials have declared their intention to "cut and run" in time of emergency and give alternative numbers. There is no need to litigate such matters.

SAPL Contention No. 26

SAPL Contention No. 26 is:

"The New Hampshire Compensatory Plan, 'Appendix L', fails to meet the requirements of 10 C.F.R. §50.47(a)(1) and §50.47(6)(1), and NUREG-0654 II.A.1 and its subsections a, b, c, and e and NUREG-F.1.a. and F.1.e in that it fails to set out with sufficient clarity, which State and local organizations are to be part of the overall response effort, the concept of operations for each organization and suborganization and the relationship of each organization to the overall response effort. Interrelationships are not illustrated in block diagrams and an overall 24 hour per day response, including manning of communications links, is not demonstrated."

This contention is wholly lacking in specificity. In fact, the Compensatory Plan lists who is being relied upon and references the procedures which they will work under. Again, SAPL is attempting to require that information in other volumes be needlessly repeated in the compensatory plan.

SAPL Contention No. 27

SAPL Contention No. 27 is:

"The New Hampshire Compensatory Plan fails to meet the requirements of 10 C.F.R. §50.47 (a)(1), §50.47 (b)(10) and NUREG-0654 J.10.d. because the plan to run buses around preassigned routes will not provide an adequate means for protecting many of those persons whose mobility is impaired due to lack of automobiles and/or lack of physical health."

The basis for this contention comes down to these assertions: "People who are elderly or not very healthy may have difficulty walking to and standing along the prearranged routes, particularly in inclement weather. Days when frostbite is a problem due to windchill factors would particularly cause problems for such individuals obtaining emergency transport." SAPL Petition at 14. This speculative offering does not support the admission of an issue for litigation. Persons so infirm that they cannot walk to the bus stop will presumably qualify for special needs (assuming they respond to the state's survey) and SAPL has therefore addressed the wrong system. Days when windchill is a potential problem are days when the wind blows stiffly out of the northwest; during such meteorological conditions it is unlikely that an evacuation would be preferred over shelter in place (because the plume would pass so quickly).

SAPL Contention No. 28

SAPL Contention No. 28 is:

"The New Hampshire Compensatory Plan does not meet the requirements of 10 C.F.R. 50.47 (a)(1), §50.47 (b)(3), §50.47 (a)(10) and NUREG-0654 II. J. 10. a. because it does not contain maps of local staging areas or bus routes for 12 of the 17 EPZ communities, the lack of which could seriously impair or extinguish the capability to implement an evacuation of those communities under the Compensatory Plan's provisions. Further, a number of maps that are provided are unclear and/or inaccurate and would be difficult for drivers unfamiliar with the area to use effectively."

A review of the basis shows that the contention is that the maps for the towns that are cooperating (i.e., for which the plan will not be needed) have not yet been inserted. This is a detail which can be a matter of Staff review. The same is true for the legibility and map error contentions.

SAPL Contentions Nos. 29 and 30

SAPL Contention No. 29 is:

"The revisions of the Seabrook and Hampton RERP's fail to meet the requirements of 10 C.F.R. §50.47 (a)(1), §50.47 (b)(1) and NUREG-0654 II.A.1 and its subsections because each organization and suborganization having an operational role has not specified its relationship to the total effort and each response organization does not have the staff to respond and to augment its initial response on a continuous basis."

SAPL Contention No. 30 is:

"The revisions of the Seabrook and Hampton RERP's fail to meet the requirements of 10 C.F.R. §50.47 (a)(1), §50.47 (b)(10) and NUREG-0654 II.J.9 and II.J.10.m. because the protective action of sheltering is not being provided for beach area populations and the protective actions contemplated in these plan revisions will not be practicable for the full spectrum of accident conditions that must be planned for according to the regulatory requirements."

Neither of these contentions were ones that could not have been made until the revisions to the two local plans were made.<sup>2</sup> The attempts in the basis to tie them to the revisions is unavailing. In addition, Contention No. 30 is a contention based upon the notion that perfect safety is required for all persons. This contention is inadmissible for the same reason as Mass. AG No. 1 discussed in prior filing.

Respectfully submitted,



*R.K. Gad III (1720)*

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<sup>2</sup> As set forth in the explanatory materials, the revisions to the Hampton and Seabrook local plans consisted of inserting the provisions for "pre-evacuation" of the beach areas at an earlier stage. This change has nothing to do with the matters presently complained of.

CERTIFICATE OF SERVICE

I, Thomas G. Dignan, Jr., one of the attorneys for the Applicants herein, hereby certify that on April 18, 1986, I made service of the within "Applicants' Response to Seacoast Anti-Pollution League's Third Supplemental Petition for Leave to Intervene" 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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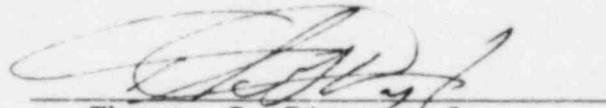
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