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October 6, 1986

UNITED STATES
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

In the Matter of CAROLINA POWER & LIGHT COMPANY and NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY (Shearon Harris Nuclear Power Plant)	Docket No. 50-400 OL

BRIEF OF INTERVENORS WELLS EDDLEMAN AND COALITION FOR ALTERNATIVES TO SHEARON HARRIS PURSUANT TO ORDER OF THE COMMISSION DATED SEPTEMBER 12,1986

INTRODUCTION

By letter dated March 4, 1986, to Mr. Harold Denton, Director, Office of Nuclear Reactor Regulation, CP&L requested pursuant to 10 C.F.R. 50.12, an exemption from 10 CFR Part 50, Appendix E, IV.F.1 (which requires Applicant to conduct a full participation exercise of the Shearon Harris emergency management plan "within one year before the issuance of the first operating license for full power and prior to operation above five percent of rated power..."). At this time there was an ongoing proceeding before the Harris Atomic Safety and Licensing Board dealing with emergency planning issues, inter alia.

On April 3, 1986, Intervenor Wells Eddleman, requested a hearing on the exemption issue, and argued that an exemption request granted without a hearing would violate the provisions of section 189(a) of the Atomic Energy Act (42 U.S.C. § 2239), would violate the Commission's own regulations, and is contrary to the public's interest in health and safety.

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In a letter dated June 10, 1986, the Applicant requested that the staff delay consideration of the exemption request. On July 10, 1986, Applicant "reactivated" the exemption request. In response, Intervenors again sought a hearing on the exemption request. (See, letter dated August 5, 1986.)

By order dated September 12, 1986, the Commission postponed its decision on whether such an exemption request gives to interested persons hearing rights, pending a determination by the Commission of whether there are any issues of material fact to litigate at such a hearing.

The Commission ordered the Staff to advise the Commission of its views regarding wheter the exemption request should be granted. Although the Commission has not expressly requested Intervenors to brief this question, Intervenors have included in this Brief its views on this issue because they bear on the nature and existence of the contested issues to be resolved at hearing.

Intervenors will show unto the Commission herein:

(I) The Applicant's exemption request requires a full evidentiary hearing pursuant to section 189(a) of the Atomic Energy Act;

(II) The Applicant's exemption request may not be considered under 10 C.F.R. 50.12, and must first be considered by the Licensing Board under the provisions of 10 CFR § 2.758;

(III) Under either standard, the exemption may be determined only after a hearing has been held to consider the contentions of intervenors;

(IV) Applicant has failed to satisfy criteria (iii) of 10 C.F.R. § 50.12, requiring a showing that compliance with the regulation would result in undue hardship significantly in excess of those incurred by others similarly situated;

(V) Applicant has failed to satisfy the criteria for an exemption under the provisions of 10 C.F.R. 50.12(a);

(VI) Deficiencies noted and improvements required as a result of the May 1985 Exercise raise substantial issues of material fact as to whether these improvements and additions have been provided, whether the defects noted have been remedied, and whether the plan, as thus supplemented, is now adequate and feasible to provide assurances of the public safety in the event of an emergency at Shearon Harris; and

(VII) Circumstances and occurences intervening since the May 1985 exercise compel rejection of the Applicant's exemption request in order to serve the underlying purposes of the regulation.

I.

The Applicant's Exemption Request Requires a Full Evidentiary Hearing pursuant to Section 189(a) of the Atomic Energy Act.

The Atomic Energy Act requires that the Commission, prior to issuance of an operating license, find that the Applicant has complied with NRC regulations. Noncompliance may be cured by an exemption from those regulations:

"It is well established that an agency's authority to proceed in a complex area...by means of rules of general

application entails the concomitant authority to provide exemption procedures." United States v. Allegheny-Ludlum Steel Corp. 406 U.S. 742, 755 (1972).

But, the more difficult question is what limitations must be applied to the granting of such exemptions. Intervenors contend first, that E.I. du Pont deNemours & Co. v. Train, 340 U.S. 112, 97 S.Ct. 965 (1977), stands for the proposition that the authority of an administrative agency to issue exemptions must be granted by Congress, either through the specific language of the enabling statute or its legislative history. Intervenors contend that because the Atomic Energy Act and its legislative history contain no specific provisions allowing the Commission to grant exemptions from its regulations, the "Commission lacks the grounds to establish rules for exemptions from its regulations."

But, in any event, Intervenors contend that a primary limitation upon an exemption from 10 CFR Part 50, Appendix E is the right of interested parties to a hearing pursuant to section 189(a), i.e., no exemption can be "authorized by law", 10 C.F.R. 50.12(a)(1), unless it complies with the provisions of Section 189(a) of the AEA.

Section 189(a) provides in relevent part:

"In any proceeding...for the granting, suspending, revoking, or amending of any license or construction permit..., the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding."

As a matter of law, exemption requests provide the basis under which interested parties are entitled to a hearing pursuant to section 189(a). In Brooks v. AEC, 476 F.2d 924 (D.C.Cir.1973), the AEC extended the time in which applicants could complete construction of the plant. The D.C. Circuit held that the petitioners were correct in claiming the right to hearing pursuant to section 189(a), and that an alteration in a license or construction permit, requires the Commission to evaluate the risk to the public health and safety. 476 F.2d at 926. Intervenors contend that an exemption from the requirement for a full scale exercise under 10 C.F.R., Part 50, Appendix E constitutes a license amendment, and, therefore, that Brooks compels a hearing, as Intevenors' requested, on Applicant's exemption request.

Eleven years after the decision in Brooks, the D.C. court had the opportunity to resolve an issue concerning licensing amendments in San Luis Obispo Mothers for Peace v. NRC, 751 F.2d 1287 (D.C.Cir.1984). Petitioners sought relief from the Commission's Order lifting the suspension of applicant's licensing term. The Court agreed that extending a license's term constituted an amendment and thus required a hearing on the issue. No hearing was ordered, however because the Commission adequately provided for a hearing when they reopened the record on the issues of design and quality assurance. 751 F.2d at 1312.

To grant an exemption from an NRC regulation, which is a material condition to the granting of an operation license, without hearing would be contrary to well settled case law and

the Commission's own regulations. Here, Applicant seeks to be exempted from an express requirement of the Commission's regulations. In light of Brooks and Mothers for Peace, it is clear that a hearing is required where interested parties seek to participate in the proceedings.

Intervenors also rely upon Sholly v. NRC, 651 F.2d 780 (D.C.Cir.1980) where the Court held that an order authorizing the licensee to vent radioactive gases was a license amendment, within the scope of the AEA, and that such an order granted the licensee the authority to do something which it could not otherwise have done under the existing license. The Commission's failure to hold the requested hearing prior to the issuance of the Order violated the Act. 651 F.2d at 791.

It is clear that the requirements for granting an operating license include a full scale exercise of the Emergency Management Plan ("EMP") one year prior to the issuance of the first operating license, 10 CFR Part 50, Appendix E., and thus to allow an exemption from that require- ment would be an improper amendment unless a hearing was allowed at the request of interested parties.

Where the Commission issued a rule providing that the Licensing Board need not consider results of emergency preparedness exercises prior to the issuance of an operating license, the D.C. Circuit held that such a rule denied interested parties the right to hearing on issues of material fact, U.C.S. v NRC, 735 F.2d 1437 (D.C.Cir.1984). "Once a hearing on a licensing proceeding is begun, it must encompass

all material factors bearing on the licensing decision." 735 F.2d at 1443 (citations ommitted).

As will be made clear in section II, infra, C.P.&L failed to file its exemption request with the Licensing Board and thereby attempted to circumvent the hearing requirement of 189(a) as stated in U.C.S. v NRC, supra. The Commission, in light of the case law cited herein, and pursuant to section 189(a) is required to grant Intervenors a hearing on the exemption issue as a matter of law.

II.

The Applicant's Exemption Request May not Be Considered under 10 C.F.R. 50.12, and Should First be Considered by the Licensing Board under the Provisions of 10 C.F.R. § 2.758.

Intervenors contend that 10 CFR § 2.758, rather than 10 CFR § 50.12, should be applied, because the Applicant has utterly failed to show the existence of any emergency situation which would justify the application of this extraordinary relief. By proceeding directly to the Director of Nuclear Reactor Regulation, Applicant ignored the initial determination that must be made about whether to consider the exemption under the standard set by 10 C.F.R. § 2.758 or 10 C.F.R. § 50.12.

In addressing this threshold question, the decisions uniformly hold that 10 C.F.R. § 2.758, rather than 10 C.F.R. § 50.12 is the preferred standard for determining whether an exemption should be issued. See, Matter of Washington Public Power Supply System (WPPS Nuclear Project Nos. 3 and 5), CLI-77-11, 5 NRC 719 (1977). In that case, the Commission noted that when an applicant seeks an

exemption from the regulation prohibiting commencement of construction prior to obtaining a Limited Work Authorization, it should proceed in accordance with 10 CFR § 2.758(b) rather than 10 CFR § 50.12, stating:

> "We regard this method (10 CFR § 50.12) as extraordinary, and we reiterate that it should be used sparingly...Parties should resort to this method of relief only in the presence of exigent circumstances, such as emergency situations in which time is of the essence and relief from the Licensing Board is impossible or highly unlikely."

Id. at 723. Accord: In Matter of Kansas Gas and Electric Co. and Kansas City Power and Light Co., (Wolf Creek Nuclear Generating Station, Unit No. 1), ALAB-321, 3 NRC 293, 314 (1976); In the Matter of Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), CLI-84-8, 19 NRC 1154, 1156 n.3 (1984).

The preference for proceeding under 10 CFR § 2.758 has its most urgent application in cases such as the present case, where the exemption directly relates to a contention being litigated in the proceeding, as in cases where applicants request exemption from the requirements of 10 C.F.R. 50, Appendix E. For example, in In Matter of Cleveland Illuminating Co., (Perry Nuclear Power Plants, Units 1 and 2), LBP-85-33, 22 NRC 442, 446 (1985), the Commission allowed the Applicant to request an exemption from a Commission regulation under 10 CFR § 50.12, rather than 10 CFR § 2.758 only upon finding that the exemption did not relate to a contention in the proceeding, and did not involve such serious safety, environmental, or common defense

and security matters as to warrant the Board's raising the issues on its own initiative. The premise underlying this ruling is that the applicants should not be allowed to avoid addressing the substantive contentions of parties in a Licensing Board proceeding unless they can show extraordinary circumstances. Without such a showing, the rights of parties to a licensing proceeding must be protected by requiring applicants to show that the purpose underlying a regulation would not be served by its application in order to be entitled to an exemption.

In the present case, the Applicant has completely ignored the threshold test set out in WPPSS Nuclear Project Nos. 3 and 5 for determining whether 10 CFR § 50.12 or 10 CFR § 2.758 is the appropriate standard and instead prematurely argues that the exemption should be issued by the Director of Nuclear Reactor Regulation pursuant to 50.12. Applicants here have made no showing of an emergency situation in which time is of the essence.

Moreover, the exemption in question -- an exemption from the regulation requiring that emergency preparedness exercises be conducted prior to the issuance of an operating license -- was precisely the issue being litigated by intervenors, and was the subject of intervenors' contentions in the emergency planning hearings. Accordingly, because the Applicants have failed to demonstrate the existence of emergency circumstances which would justify application of the extraordinary remedy 10 CFR § 50.12, and because application of 10 CFR § 50.12 would allow the applicants to circumvent addressing substantive contentions

raised by intervenors, the exemption must be considered under the standard of 10 CFR § 2.758.

III.

Under either the 10 C.F.R. 50.12 Standard or the 10 C.F.R. § 2.758 Standard, the Exemption May be Determined only after a Hearing Has Been Held to Consider the Contentions of Intervenors.

A. Exemption Decisions Under 10 CFR § 2.758 Must be Made by the Licensing Board After Considering the Views of Other Parties.

There can be no question that a determination under 10 CFR § 2.758 can be made only after a Licensing Board hearing. This was clearly stated by the Commission in Wolf Creek:

"Under 10 CFR § 2.758, a party may request that a particular rule or regulation 'be waived or an exception made' on the ground that 'special circumstances * * * are such that application of the rule or regulation * * * would not serve the purposes for which (it) was adopted.' The Licensing Board must then determine, after considering the views of the other parties, whether a prima facie case for an exception has been made out. If it so finds, it does not grant the exception itself; instead, it certifies the matter directly to the Commission for decision. The advantage this procedure has over the "exemption" (§ 50.12) route is that the matter is presented to the Commission on a fuller record accompanied by the views of the Licensing Board, which should be most familiar with the situation.

Id., 3 NRC at 314 (emphasis added). Accordingly, if it is determined that the Applicant has failed to demonstrate that emergency circumstances exist which justify the use of § 50.12 "extraordinary" exemption route, the Applicant's request for an exemption must be remanded to the Licensing Board for a hearing on the matter in which the Licensing Board must consider the views of the intervenors.

B. Except Under Special Circumstances, Exemption Decisions Under 10 CFR § 50.12 Must Also be Made by the Licensing Board After Opportunity for Parties to Present Evidence on the Record.

Even if it is determined that the proper standard for determining the exemption is 10 CFR § 50.12, the finding as to whether the standard is met should be made by the Licensing Board after adjudicatory hearing on the matter rather than by the Commission under ad hoc, non-adjudicatory proceedings. See, Shoreham Nuclear Power Station, Unit 1, supra, where the Commission refused to make the initial determination of whether the applicant had satisfied the criteria for an exemption under 10 CFR § 50.12, instead ordering that the matter be submitted to the Licensing Board to make findings after a full hearing, stating "absent special circumstances not readily apparent here, (the Commission) would be extremely reluctant to assume the functions of an existing Licensing Board of compiling a factual record, analyzing it and making the initial determination based upon the record." Id. 19 NRC at 1155 n.2 (citing WPPSS Nuclear Project Nos. 3 and 5, 5 NRC at 722.

Shoreham establishes both 1) that the question of whether § 50.12 is met is to be determined on the record, (i.e. in the context of the adjudicatory hearing) and 2) that the decision is to be made in the first instance by the Licensing Board which compiles the relevant record. The Applicant has made no attempt to show that any special circumstances exist that would justify ignoring the on-the-record requirement for determining an exemption request. Moreover, we note that if the Applicant's exemption request is granted by the Commission, this action will be tantamount to granting the Applicant an operating license without a hearing on a material issue -- an action which would be plainly inconsistent with the principles set forth in Union of Concerned Scientists v. NRC, 735 F.2d 1435 (D.C. Cir. 1983).

IV.

Applicant Has Failed to Satisfy Criterion (iii) of 10 C.F.R. § 50.12, Requiring a Showing that Compliance with the Regulation Would Result in Undue Hardship Significantly in Excess of those Incurred by Others Similarly Situated..

The Applicant has attempted to show that it has satisfied Exemption Criterion (iii) because conducting a full-participation exercise would involve additional costs to the Applicant, and to the state and local agencies which had not been budgeted. However, this clearly is not the type of showing of undue hardship anticipated by the regulation. Rather, as is plainly indicated in the explanation accompanying the proposed rule, a showing of "undue hardship" is made "where the person seeking a waiver can demonstrate that his or her circumstances are substantially different from those which have been carefully

considered in the rulemaking proceeding from which an exemption is desired." 50 Fed. Reg. 16506, 16507 (April 26, 1985) citing Industrial Broadcasting Co. v. FCC, 437 F.2d 680 (D.C. Cir. 1970).

Under this standard, an exemption from a regulation based on a showing of financial hardship would be appropriate only where the generalized factual premise for the regulation was that compliance with the regulation would be relatively inexpensive and easy, and changes subsequent to the issuance of the regulation now make compliance expensive and difficult for this Applicant. No such changed circumstance has either been alleged or exists.

Applicants have not, and indeed cannot, demonstrate that it was contemplated that an emergency preparedness drill would be an inexpensive exercise, nor have they shown that the alleged costliness of such an exercise is a result of circumstances applicable only to them. And, in any event, Applicant here attempts to take advantage of its own delays and inability to bring the plant to operating readiness, and should be estopped from relief from the Commission, when the sole basis of that relief would be the Applicant's own miscalculations as to the real timelines involved.

"Administrative agencies should be bound by their own rules and regulations, so that an agency's power to suspend its own rules...must be closely scrutinized especially where the substantive rights of a party in the administrative process may be affected. Safety-Kleen Corp. v. Dieser Industries, NC., 518 F.2d 1399, 1403 (Cust. and Pat. App 1975).

Moreover, Applicant has failed to make any showing under subsection (ii) of the rule that compliance with the rule would not serve the underlying purpose of the rule, or that it is not necessary to achieve the purpose of the rule. (See, Sections VI and VII, herein.)

V.

CP&L Has Failed to Satisfy The Criteria For An Exemption under the Provisions of 10 C.F.R. 50.12(a).

A. An Exemption Would Present an Undue Risk to the Public Health and Safety.

No exemption should be allowed when to do so would present an undue risk to the public health and safety. 10 CFR 50.12 (a)(1). In the absence of a full participation exercise at this time, such undue risk will be presented, because the Plan that now exists is not the Plan that was tested. Significant modifications in procedures, equipment and training were required as a result of the May 1985 test, and the contentions of Intervenors and actions of other interested parties.

Other sections of this brief detail serious defects in the Shearon Harris Emergency Response Plan ("SHERP" herein) as shown by the May 1985 exercise, plus substantial modifications made to the emergency plan since that exercise. (See, Sections VI and VII.) In the absence of a full participation exercise at this time, there can be no reasonable assurance that the defects have been corrected, or that the modifications can be implemented.

FEMA staff admitted in a conference call ordered by the Shearon Harris Licensing Board (February, 1986) that changes made or to be made to the procedures and plan provided under the

SHERP could not be evaluated without another full participation test of the SHERP. (See, Eddleman Response to Summary Disposition Motions on Contentions EPX2 and EPX8, 1986.)

This brief also presents data tracing the significant population growth occurring in the counties surrounding Shearon Harris, and the even faster rate of growth in traffic on the two major highways closest to Shearon Harris. A full participation exercise is necessary to provide adequate assurance that the modified plan can be implemented under current population and traffic conditions.

Appendix B to this brief summarizes poll data which identify a fundamental lack of public confidence in the emergency plan. In addition, incorrect and misleading information on how to respond to an emergency has been aired to the public by CP&L. A full participation exercise is necessary for public confidence and education.

A full participation exercise under 10 C.F.R., Part 50 Appendix E is required for a clear reason: to establish reasonable assurance, under 10 C.F.R. 50.47(a)(1), that the plan can and will be implemented. In the absence of such reasonable assurance, an undue risk to the public health and safety is present as a matter of law, i.e., the burden of showing the absence of such risk is on Applicant, and can only be shown by compliance with the requirements of 10 C.F.R. Part 50 Appendix E.

CP&L's request should be denied on its face for failure to establish any of the criteria required for an exemption. At the very least, a full evidentiary hearing should be required before

any exemption is granted. CP&L is required to prove that there are no undue risks presented to the public health and safety. That is, CP&L is required to establish that reasonable assurance can be, and is, provided under 10 C.F.R. 50.47(a)(1), despite the defects in the May, 1985 exercise, despite the modifications made to the emergency plan since May, 1985, despite the significant demographic changes, and despite the lack of public confidence in and education about the Plan.

B. CP&L's Request Should be Summarily Denied Due to An Excessive Lapse of Time Since the May, 1985 Exercise.

An unreasonable amount of time has elapsed, and will elapse, between May, 1985 and the time CP&L can reasonably expect to operate above five percent power.

Section IV.F.1 of 10 CFR Appendix E establishes at least a prima facie time standard: reasonable assurance that an emergency plan can and will be implemented requires a full participation exercise within one year prior to operation above five percent power.

CP&L's request so far exceeds this one year standard that to call it an "exemption" at all is literary miscegenation, and hardly demonstrates the good faith required of an axemption Applicant.

What CP&L requests, without a hearing, is entirely extraordinary relief. The Company has missed every deadline it has announced publicly to date, and has yet to begin low power testing or even to load fuel. Even CP&L cannot give an unqualified estimate as to when it might be ready to operate at greater than five percent of rated power. Thus it is apparent

that CP&L's exemption request not only does violence to the "one year" standard, but in fact would result in an exemption for an indeterminate term.

When CP&L filed this request, it "anticipated" operation above five percent power in September of 1986. It is now October, 1986, and neither full loading nor testing below five percent power has yet begun. Not even CP&L's press releases predict operation above five percent power before the spring of 1987. More reasonable estimates suggest full power operation could not be commenced before late summer or fall of 1987, marking more than two full years since the May 1985 exercise.

Any such amount of time, more than doubling the usual standard, is unreasonable per se.

C. CP&L Fails to Satisfy Any of the Exemption Criteria of 10 CFR 50.12(a)(2).

CP&L asserts that criteria (ii),(iii),(v), and (vi) under 10 CFR 50.12(a)(2) justify an exemption. (CP&L's "Justification for Exemption From 10 CFR 50 Appendix E, Section IV.V.1," which was an attachment to CP&L's letter of March 4, 1986 to Mr. Harold Denton.)

Exemption criterion (ii): Is application of the regulation "necessary to achieve the underlying purpose of the rule?"

The purpose of a full participation exercise within one year prior to operation above five percent power is to establish reasonable assurance that the emergency plan in place can and will be implemented. This requires that readiness and training actually exist within one year before operation above five percent power. Because the full participation exercise of May,

1985 fails to establish such assurance, an exemption from the requirement would defeat the purpose of the regulation.

As detailed hereunder: (a) serious problems and inadequacies were discovered during the May, 1985 exercise; (b) the emergency plan tested in May, 1985 has been substantially and fundamentally changed; (c) intervening circumstances, including inter alia, population and highway traffic growth, necessitate an exercise of the plan under current conditions; and (d) public confidence and education are seriously lacking. A full scale exercise is urgently needed to achieve the fundamental purpose of the regulation.

The "one year" time limit is central to the regulation's underlying purpose. Even if some de minimis amount of time in excess of one year would not defeat the purpose of the regulation, CP&L's request is of a far different magnitude. The excessive nature of CP&L's request is established by the express terms of the two regulations governing full participation exercises before, versus after, full power operation.

After full power operation begins, States must fully participate in offsite emergency exercises at least once every two years. 10 CFR Appendix E Sect. IV.F.3(b). Thus, the regulations make a clear distinction between initially demonstrating emergency preparedness within one year before full power operation, and maintaining emergency preparedness once every two years after full power operation begins.

CP&L ignores this distinction.

Arguing from the erroneous premise that the May 1985 exercise was "fully successful," CP&L goes on to suggest that

the two year criterion of Section IV.F. s(b) can justify an exemption from the one year requirement of Section IV.F.1. In effect, CP&L asserts that because two years is deemed adequate to demonstrate maintained preparedness, the regulation requiring an initial demonstration of preparedness, within one year prior to full power operation, need not be followed.

When CP&L first made this argument, seven months ago, it "anticipated" full power operation in September, 1986. By the time CP&L can reasonably anticipate operating above five percent power, at least two years are likely to have elapsed since the May, 1985 exercise. Two years is the outer limit established by regulation for demonstrating maintained preparedness after full power operation. To apply this two year criterion to the requirement of a full scale exercise before full power operation, i.e., to grant an execmption here, would entirely frustrate the purpose of Section. IV.F.1.

CP&L's other contentions on criteria (ii) merely suggest that less than a full scale exercise can substitute for a full scale exercise. The alleged "preparedness appraisals" and "training" programs cannot substitute for hands-on experience under conditions designed to approximate emergency conditions and test the coordination of several state and local agencies. Furthermore, CP&L's assertion that such training occurred or was planned cannot substitute for the full scale exercise which is necessary to determine the relevance and adequacy of such training to the SHERP.

CP&L cites State emergency management experience in handling such natural disasters as hurricanes or tornadoes for the

proposition, apparently, that this can substitute for the full participation exercise of 10 CFR Appendix E. Not only does this contention attempt to swallow the rule, it defies social science data on the subject. Emergency planning for natural disasters cannot be generalized to nuclear disasters. People respond in fundamentally different ways to these different types of emergencies, and the hazards of radiation require different response techniques and technologies. Appendix A to this Brief is a review of the social science research done in this area, prepared by Dr. B. Risman, North Carolina State University, Department of Sociology.

In addition, Applicant's Counsel apparently assumes that the State's experience in providing emergency services in recent natural disasters demonstrates competence and satisfactory ability on its part. To put it mildly, State Emergency Management's efforts to evacuate Bogue Banks (see Appendix C) in anticipation of Hurricane Charlie's passage during the weekend of August 16, 1986, resulted in widely publicized confusion and delays, with traffic waits of three to six hours for many motorists who had been ordered to evacuate to the mainland. These events were followed by reports of the State's determination to improve the procedures and provide supplemental equipment and facilities to assure the State's ability to respond to such emergencies.

This intervening experience demonstrates the existence of substantial, material issues of fact, arising since the May 1985 exercise, and suggests a fundamental flaw in the Applicant's SHERP insofar as it relies upon the capability of State

Emergency Management personnel, and on the adequacy of State resources, to provide for and complete an effective evacuation under actual emergency conditions. And, the State's experience with this actual emergency compels the Commission to reassess the State's plans and capabilities to respond to an emergency at Shearon Harris, and certainly creates, rather than resolves, issues material to the Commission's determination of the Applicant's request to be exempted from the full scale exercise required by 10 C.F.R. 50.

Exemption Criterion (iii): Would compliance with the regulation result in undue hardships significantly in excess of those contemplated when the regulation was adopted, or significantly in excess of those incurred by others similarily situated?

CP&L's unsupported assertions of excessive expense were based on its assumption that a full scale exercise would be required after "anticipated" full power operation in September, 1986. It is now clear that full power operation will not commence before 1987. CP&L implicitly acknowledged that a full scale exercise would be economically reasonable by 1987. It claims (but does not substantiate) that the "state has not planned participation in a SHNPP exercise until 1987."

At the outset, therefore, CP&L's claims of excessive expense have been rendered moot.

CP&L asserts excessive expense not merely for itself, but for both the state and counties as well. CP&L lacks standing to justify its exemption request based on the alleged undue expense

of others. More importantly, the allegation has been contradicted by both public officials and the public.

North Carolina's Attorney General Lacy Thornburg is on the Commission's public record supporting a full scale exercise before full power operation and opposing CP&L's exemption request. Chatham County recently resolved to conduct annual tests of its emergency plan for all hazards. Included in the resolution was a specific intention to participate in Shearon Harris exercises. Public debate has generated widespread interest and concern over emergency planning. What CP&L labels "excessive expense by state or county governments" would in fact be perceived as a welcome and necessary expenditure by the citizens for whom CP&L purports to speak.

The Commission is no doubt aware that thousands of citizens have written the Chairman requesting that CP&L be required to comply with the provisions of 10 C.F.R. Part 50 Appendix E, i.e., that a full scale exercise of the SHERP be conducted by Applicant within one year before commercial operation of the plant is licensed. And, the Durham City Council, the Carrboro Board of Aldermen, the Orange County Board of Commissioners, the Mayor of Chapel Hill and State Representative Joe Hackney have submitted similar requests for a full scale exercise to the Commission.

In light of this public concern, interest and demand for the exercise, CP&L's complaints about "public expense" are shown to be supported only by the Company's self-interest, as opposed to the public interest, which it is thus shown expressly to contradict.

Having attempted to silence, then for months having ignored, citizens' concerns and inquiries about the inadequacy of the SHERP, how unseemly it is for the Applicant now to presume to speak, as if from the podium of government, about the "unanticipated expense" which adequately testing the SHERP might cause.

As to its own "excessive expenditures," CP&L offers no substantiation. A hearing would be required to ascertain what if any expenses CP&L would incur not merely above and beyond normal salaries and operating expenses, but above what is contemplated by the regulation.

Exemption Criterion (v): Would the exemption provide only temporary relief from the applicable regulation and has the applicant made a good faith effort to comply?

Applicant has made no efforts in good faith to comply with the requirement for a full participation exercise within one year before first operation above five percent power. In fact, in June of 1985, one month after the May 1985 test, the NRC Caseload Forecast Panel found that CP&L was then six months behind its stated schedule. This was based on information available in June 1985. Further evidence of CP&L's lack of good faith is its continual assertion of unrealistic fuel load and operation dates based on wildly optomistic testing schedules. CP&L has delayed fuel load no less than five times in the last year, according to press reports. And, it told the Caseload Forecast Panel that it could complete pre-operational tests much faster than it realistically might have or has.

As recently as September 15, 1986, CP&L told NRC Chairman Zech that it could complete requirements within two weeks, a schedule Chairman Zech himself questioned on the spot.

An exercise scheduled for May, 1985, on the basis of schedules which, even then, were known to be unrealistic, cannot constitute "good faith" efforts to comply with the requirement that the pre-operational emergency response plan full participation exercise be held within one year prior to operation above five percent power.

There can be no "temporary" relief from this regulation. It seems quite evident that once full power operation has begun, it is no longer possible to perform actions required before full power operation begins. It is exceedingly difficult to reconcile CP&L's contention that it requests "temporary" relief with a good faith effort to comply with either the spirit or the letter of the regulation.

VI.

Deficiencies noted and Improvements Required as a Result of the May 1985 Exercise Raise Substantial Issues of Material Fact as to Whether These Improvements and Additions Have Been Provided, Whether the Defects Noted Have Been Remedied, and Whether the Plan, as thus Supplemented, Is Now Adequate and Feasible to Provide Assurances of the Public Safety in the Event of an Emergency at Shearon Harris.

CP&L's request for exemption is based upon its contention that the previous May 1985 "exercise was fully successful," that the licensee "played very well," and that "the training and commitment to emergency preparedness was obvious in this

exercise." Furthermore, CP&L asserts that FEMA found that "the state and local emergency plans are adequate and capable of being implemented and the exercise demonstrated that off-site preparedness is adequate."

In fact, State and FEMA reviews of the May 1985 exercise established that critical components of the plan were not in place and that, of those provided under the plan, many deficiencies and inadequacies existed. These include: (References are to the page number of the FEMA Report, and to Sections referenced in the State Report, on the May 1985 Exercise.)

1. Inadequacy of the EBS.

"Effective use of the EBS was not achieved...There was not a usable system to respond to telephone queries from the media ... The scenario failed to adequately test the public information staff." FEMA p.2.

"Verfication of the Wake County EBS was not managed effectively through the use of established plans." FEMA pp.18-19.

2. Inadequacies in Radiological Monitoring and Decontamination.

"The scenario did not demonstrate the State's ability to track a plume or the team members' capability to deal with elevated readings and exposure control." FEMA p.14.

"Shelter personnel in Harnett County misunderstood the decontamination process. Personnel responsible for radiological monitoring at both schools were unprepared to keep personnel monitoring and decontamination records." FEMA pp.21-22.

"Personnel in Wake County should be retrained on the significance of radio iodine and on KI as a blocking agent." FEMA p.28.

"Lee County decontamination group appeared unsure of themselves and initially indicated that they had not been trained and were unsure as to what to do. They appeared to have no knowledge in the use of the instruments. No consideration was given to collecting water or attempting to control contamination None of the personnel could answer the question 'When is decontamination complete?' It is recommended that radiological monitoring be increased and intensified in this county." SR--"Lee County"

"The proficiency of the Chatham County monitoring and decontamination teams should be improved by additional training. Back-up radiological monitoring instruments should be provided." FEMA p.21

"Some Chatham County officers were uncertain as to the relationship between radio iodine exposure and use of potassium iodide." FEMA p.6

(DEFICIENCY NOTED) Dose Assessment: "During most of the first day and early in the second day this system functioned poorly and delayed the sending of computerized data files for as much as half an hour. This appears to be a training rather than an equipment problem." FEAM p.9

3. Inadequacies in Communications Systems.

"Some difficulties were initially experienced in establishing a conferencing network. Installation of a dedicated network in the EOC could resolve problems." "Lengthy delays

were experienced in receiving hard copy messages and equipment did not function at all between the media center and Wake County EOC." FEMA p.3

"Procedures for receiving incoming messages in Chatham County were not adequate. More telephones should be installed for agency officials." FEMA p.20

"In Wake County a dedicated telephone communications system should be installed." FEMA p.18

"In Chatham County suggestions for improvements: add phones to sheltering and registration areas, provide hand-held radios for sheltering personnel." FEMA p.21

"In Harnett County there is excessive reliance on a single land line through the county warning point for back-up communications with other EOC's and other facilities." FEMA p.25

"While it appeared that almost every department had their own two-way radios, coordination and workable communications is a different story. The State Highway Patrol had the only reliable source of contacts. However, this system was quickly overworked by so many units being involved in the exercise...The helicopter deployed on Saturday morning proved that there could be absolutely no communications with ground units due to constant misuse of this frequency. It is recommended that Emergency Management have their communications system upgraded and put into operation. They do not have sufficient radio contact with all agencies, nor assigned telecommunicators." SR--"Communications"

4. Inadequate Dissemination of Public Information and Media Contacts.

"Little information was avilable to the EOC staff regarding what the public was being told during the entire exercise. Some improvements are needed in rumor-control procedures." FEMA p.3

(DEFICIENCY NOTED) "Management and coordination of the rumor-control function were inadequate...Use of the EBS was incomplete and ineffectively managed. Actual testing of the public information capability to respond to such demands was virtually nonexistent during this exercise. Without simulated reporters in the briefings or controller phone calls simulating those from reporters, or both, there is little realism in an exercise such as this for public information staffs." FEMA p.27

5. Inadequate Facilities.

Harnett County Emergency Operations Center: "This facility was inadequate in almost every respect; insufficient furniture and space for participants, poor lighting, inefficient traffic flow pattern, too few telephones for a real world emergency, and an excessive noise level." FEMA p.24

(DEFICIENCY NOTED) "Physical facilities in Harnett were inadequate in almost every particular respect." FEMA 25

"The physical arrangement of the staging area (Harnett County shelters) would undoubtedly create confusion, traffic problems, and general chaos." FEMA p. 26

"Extremely inadequate circumstances in Harnett County EOC ... was a hall of the county courthouse. Communications a tremendous problem because of insufficient telephones. Harnett County sirens could not be activated because of a short circuit in radio communications." SR "Harnett County"

Chatham County: "The ability of the shelter (evaluated) facility to serve 2028 evacuees (assumed capacity) should be reviewed." FEMA p.21

6. Necessity for Additional Training and EquipmentJ

Lee County: "EOC personnel were not familiar with the county operational plan. Lee County should continue and increse its training to all agencies in the COP." SR--"Lee County"

Wake County: "High priority should be given to constant training and updating of information to all county agencies involved. There is a need for specific guidelines and SOP's to be provided to EOC staff to designate duties. CP&L personnel need to be present at the Wake County EOC to interpret data to avoid confusion on plant conditions. Need method for determining if emergency warning sirens had been activated. Messages were delayed by telephone and by radio because of breakdown of hard copy machine." SR--"Wake County"

Wake County: "Dossimeters that were expected from CP&L were not received." FEMA p.28

Radiological Monitoring Teams: "Additional training and expanded standard operating procedures would be beneficial." FEAM p.2

Chatham County: "With additional training and corrections in procedures and equipment (known by the staff), an emergency can be effectively handled." FEMA p.4

7. Lack of Criteria for Re-Entry of EPZ.

Lee County: "There are no criteria for the officers to use in deciding whether to allow persons to re-enter EPZ." FEMA p.27

Chatham County: "Criteria for CPZ re-entry should be established." FEMA p.29.

"In the last five years, re-entry has never been practiced or paid any real attention." SR--"The Division of Environmental Management"

8. State Highway Patrol Incapable of Handling SH Emergency.

"The SHP is not yet capable of adequately handling the impact of so many units responding to an emergency of this type. We are slowly resolving this problem, but as always, budgetary restrictions are a governing factor. Highway patrol radio equipment was not adequate at the county EOCs (except Wake). Printed guidelines of procedures to be followed in personnel monitoring and vehicle monitoring need to be in every radiological kit. Troopers forget procedures with time." SR--"State Highway Patrol"

9. Inadequate Exercise Scenario.

"The scenario for Lee County EOC was not very demanding ... Thus, emergency management and response were not challanged." FEMA p.27

10. Inadeqate Traffic Control Designations.

"Traffic control designations on the roads were identified in a very confusing manner." FEMA p.28

"Evacuation and detour routes need to be pre-established and to consider present day traffic counts and overall conflicting problems. Evacuation route revisions are needed to shorten routes and to reduce traffic conflicts." SR--"Department of Transportation"

Lee County: "The route alerting took 45 minutes...much longer than it should have been." FEMA p.27

11. Failure to Evaluate Evacuation Centers.

Chatham County: "Two evacuation shelters were not evaluated and were not identified to evaluators until morning of May 16...Federal evaluator was unable to locate these shelters because his map was not updated, and Chatham County EOC could not be contacted because of excessive and unnecessary radio traffic." SR--"Chatham County"

12. Shelter Supervision Agreements.

Harnett County: Shelter personnel told evaluator that Red Cross had agreed to take over shelter supervision after initial shelter operation; no such agreements have been secured and must be obtained. FEMA p.26

Summary

Rather than fulfilling the requirement for a full scale exercise under 10 C.F.R. 50, the May 1985 exercise merely raised questions which, in order to serve the underlying purpose of the regulation, must be answered by a current full scale exercise before the public may have any assurance that the plan, as supplemented, is adequate and feasible to provide for the public safety in the event of an emergency at the Plant.

Thus a hearing is necessary in order to determine how the plan was changed, and whether the required additional equipment, facilities and training have been provided to cure the problems reflected by the May 1985 exercise. And, a full scale exercise of the SHERP is all the more essential to test whether the plan,

as augmented since May 1985, will in fact operate to provide reasonable and adequate assurance for the public safety.

This is especially true in light of the Licensing Board's granting summary disposition of Intervenor Eddleman's contentions EPX-2 and EPX-8 on the basis of changes to the Plan which FEMA had not, and still has not, been able to evaluate, in terms of adequacy, without a current full participation exercise. These contentions related to deficiencies in communications and in the use of the EBS that the Licensing Board agreed could constitute fundamental flaws. Carolina Power & Light Company et al. (Shearon Harris Nuclear Power Plant), 22 NRC 899, 911 (1985).

Without a full scale test of the current plan and presently available resources, the public's impression of and confidence in the SHERP necessarily rest only upon the reports from FEMA and the State, inter alia, that key components of the plan were "wholly inadequate," that key participants in the plan "are not yet capable of handling the impact of so many units responding to an emergency of this type," and that in the event of an emergency at Shearon Harris, the public would have to rely upon an Emergency Broadcast System which, in the May 1985 exercise, was "incomplete and inefficiently managed." This result could hardly be determined to have served "the underlying purpose of the rule." 10 C.F.R. 50.12(a)(2)(A).

VII.

Circumstances and Occurences Intervening since the May 1985 Exercise Compel Rejection of the Applicant's Exemption Request

by the Commission, in order to Serve the Underlying Purposes of the Regulation.

Since the May 1985 exercise, the following events and circumstances have put at issue material considerations relevant to the determinations required under the provisions of 10 C.F.R. 50.12, and have suggested additional inadequacies in the SHERP which can only be resolved by an exercise of the current SHERP. The circumstances and events, and their materiality to this issue are summarized below.

1. Inadvertent Operation of Warning Sirens During Summer, 1986; Inoperable Tone Alert Radios.

During the summer of 1986, one or more of the SHERP warning sirens were inadvertently set off during the early morning hours. Many citizens living nearby reported that they could not hear and were not awakened by the sirens.

Issues regarding the adequacy of such sirens, in a temperate climate where persons sleep in homes with windows closed and air conditioners operating, much less heated, enclosed rocms during the winter, were raised and must be resolved as a result, not to mention the needs of the hearing impaired.

Persons who heard the sirens reported that they called law enforcement agencies and the Harris Plant and were unable to learn whether the sirens signified an actual emergency or what in fact had caused them to go off. Obvious issues relevant to siren operation and public information were thus raised, and require resolution on the issue of whether reliance on these systems is a fundamental flaw in the system.

The conflicting explanations, given to frightened, inquiring citizens by CP&L employees about the malfunctioning sirens (i.e., that "it was just the break whistle", that "vandals" set off the sirens, etc.) raise important questions as to whether the siren defects found in the May 1985 exercise have in fact been remedied, whether the plant and sirens are secure from vandals or even terrorists, whether the sirens offer adequate assurances to the public (when even CP&L cannot tell who made them sound, why they are sounding or even whether they are sounding), and whether remedy of the deficient rumor control procedures has been effected.

In addition, tone alert radios distributed to persons living within the five mile zone reportedly have malfunctioned. The Attorney General has demanded that such radios be provided at least to everyone within the ten mile zone, raising issues as to the extent to which they should be necessary, in addition to the issue of whether they even work.

2. Lapse of time since May 1985 exercise, resulting in changes in the SHERP, changes in key personnel and necessity for retraining.

As was noted in the State Report, "State Highway Patrol" section, "Troopers (and other SHERP participants) forget procedures with time." In addition, turnover in law enforcement, medical, teaching and other key personnel, and modifications in chain of command, (such as the transfer of responsibility for traffic control in Lee County, from the Police Chief to the Sheriff), belie the assumption that those who were there last time, will either remember, or even still be around, when

Applicant finally gets around to opening the Plant, no matter how long it has been since the May 1985 exercise.

3. Responsibility under the SHERP for Jordan Lake Recreational Area. Since the May 1985 exercise, substantial questions have arisen concerning what agency will be responsible for the SHERP provisions for evacuation and management of the Jordan Lake recreational area. Even after agreeing again to participate in the SHERP on July 7, 1986, the Chairman of the Board of Commissioners of Chatham County stated in a number of public meetings, with apparent agreement from his fellow Commissioners, that the County will take no responsibility for the Jordan Lake recreational area under the SHERP. These statements contradict the provisions made under the Plan, and raise substantial issues of fact as to who or what agency will in fact provide for the more than 20,000 persons who regularly use the facility on warm weekend days, and, unless clarified, suggest a fundamental flaw in the SHERP as it is designed to operate.

4. Public statements by President of CP&L, since May 1985 exercise, contradict and conflict with provisions of SHERP, requiring, as remedy, current exercise of SHERP to avoid confusion and reassure public as to procedures dictated by Plan.

(a) In a "Town Meeting" in Raleigh, after the Chatham Commissioners withdrew from the SHERP on May 23, 1986, while discounting the potential disruption that might be caused by an accidental discharge of radiation at the Harris Plant, President Sherwood Smith stated that even in the event of a worst case discharge at the Plant, evacuated residents would be able to

return to their homes within the EPZ on the day after evacuation.

As noted above, most of the SHERP counties do not have any zone reentry criteria.

President Smith's statement was not only misleading in the sense that it implied that such criteria were in place, not just erroneous as a matter of obvious fact, but, most importantly, suggested to an increasingly uneasy public that neither CP&L nor the SHERP see a real necessity for providing for the public safety and welfare in the longer run in such an event.

(b) In that same "Town Meeting," President Smith stated that, in the event of an accidental radiation discharge at the Harris Plant, those persons who lived more than two miles from the Plant might are safe.

This statement flatly contradicts the requirements and provisions in the SHERP for evacuation, not sheltering in place, for those in the plume pathway within the ten mile EPZ, and resulted in public confusion as to what actions would be called for under the provisions of the Plan.

These misstatements by the President of CP&L, made to a questioning audience and disseminated by print, radio and television media, raise questions as to how a confused and misled public would in fact respond if the SHERP were in fact exercised, either to test the Plan, or in the event of an accident at the Plant, and require a current exercise under 10 C.F.R. 50 both to demonstrate the expected procedures and to reassure the public of the Company's confidence in the actual, rather than the President's version, of the Plan.

In the hearing requested, Intervenors are prepared to offer evidence of these statements and of their adverse impact of public understanding and confidence in the SHERP.

5. Revisions in the Plan regarding what hospitals and medical facilities would be available to provide decontamination and medical services under SHERP have been made since the May 1985 exercise.

Since the May 1985 exercise, questions have arisen regarding whether binding commitments with Chatham Hospital have in fact been reached assuring that that hospital would serve, as anticipated under the SHERP, and whether the staff, training and equipment necessary for its participation have been provided. Intervenors believe, and therefore assert, that no such binding agreements have been either reached or entered into. The basis of this contention is the memorandum dated July 18, 1986, from Rebecca Disosway to David Crisp, on the letterhead of the North Carolina Department of Crime Control and Public Safety, which states:

> "Russ Johnston, Johnny James and I attended a meeting on July 17 at Chatham Hospital to discuss the hospital's options (emphasis added) concerning treatment of radiation victims.
>
> Several questions were raised about specific equipment and the hospital's role in a nuclear power plant accident... the hospital does not have the facilities or the staff to handle this (several hundred) large number of people.

Webster and Russ Starkey of CP&L answered questions about nuclear power and radiation, and they downplayed the possibility of a plant accident affecting the public.

No decisions were made in the meeting as to the hospital's course of action. The administrator seemed to be interested in upgrading the hospital's capabilities, but several of the doctors were skeptical as to the effectiveness of existing plans for responding to a Shearon Harris accident. Those doctors appeared to be very knowledgable of current issues concerning Shearon Harris and the N.C. Emergency Response Plan in support of the plant."

In addition, N.C. Memorial Hospital has agreed to serve and treat only those persons in need of in-patient medical attention. Substantial issues exist as to that hospital's willingness to participate to the extent required by SHERP in the event of a Harris Plant emergency. (See "MEMORANDUM OF AGREEMENT" between NCMH and RADIATION PROTECTION SECTION, N.C. DEPARTMENT OF HUMAN RESOURCES, dated "8-21-86."See, Appendix D.)

These circumstances raise substantial issues suggesting a fatal flaw in the SHERP, and bear materially on the Commission's determination of the Company's exemption request.

6. Since the May 1985 exercise, affidavits of key county employees have been submitted stating that they will participate in exercises, but not in actual emergencies as anticipated under the SHERP.

During the summer of 1986, all of the Chatham County public health workers, who were assigned County evacuation shelter management duties under the SHERP, submitted affidavits

(attached as Appendix E) to the County (and, it is believed, to the NRC), stating that while they would participate in a test exercise under SHERP, in the event of an actual emergency at the Harris Plant, they would consider their homes and families their first priority and would not perform the duties set out in the SHERP in that event.

These affidavits raise substantial questions suggesting a fundamental flaw in the SHERP, by its reliance on the participation of these employees, and dictate denial of CP&L's exemption request, or, at the least, a hearing to determine the extent and effect of these notices of nonparticipation.

7. Growth, commercial and residential development and population transience in and near the EPZ since May 1985 have been substantial, and compel, in the public interest, that CP&L's exemption request be denied.

The Attorney General of North Carolina has written the NRC to strongly oppose the exemption request on precisely these grounds. His letter establishes that the public interest dictates that the plan be currently tested by a full scale exercise to demonstrate its adequacy in the context of the area, as developed since May 1985, and to educate and assure those who have moved into the area in ignorance of the procedures, plans and facilities designed to protect the public in the event of an emergency at the Harris Plant.

Indeed, his request underscores the compelling public interest in currently exercising the SHERP, to serve the underlying purposes of 10 C.F.R. 50, and is hardly refuted by

the Company's protestation that (its own) delays and "unexpected public expense" justify an exemption from the regulation.

And, the facts themselves justify the Attorney General's contention.

The four counties within the ten-mile zone of Shearon Harris, Chatham, Harnett, Lee, and Wake, are experiencing tremendous population growth.

The years 1985 to 1987 are particularly relevant here, for this is the time period between the May 1985 exercise and any reasonable time when CP&L might operate above five percent power. It is, therefore, the time period for which an exemption is requested.

From 1985 to 1987, population in the four affected counties is projected to increase by 4.9%, or an average annual rate of 2.45%. (North Carolina Department of Budget and Administration, Population Estimates and Projections published May, 1986.) This rate of increse is over twice the highest projected national rate. U.S. population is projected to increase at an annual average rate of only between .67% and 1.15% from 1985 to 1990. (Projections of the Population of the United States by Age, Sex and Race: 1983 to 2080, U.S. Bureau of the Census, May, 1984).

Two major evacuation routes are Routes 1 and 64. From 1983 to 1985, the average daily traffic on Route 64 near the Wake County line, within ten miles of Shearon Harris, increased by 21.1%, an average annual rate of 10.55%. (North Carolina Highway Traffic Statistics, 1985, N.C. Department of Transportation, Division of Highways.) The Division of Highways considers this same rate of increase representative of Route 1, because of

geographic proximity, and expects the rate of increase for these highways to remain substantially the same through at least 1987. This rate of increase is twice the average rate for highways statewide.

In the absence of a full participation test no knowledgable assessment is possible as to whether the plan is adequate under current conditions. At the very least, a hearing is necessary to establish whether the May, 1985 exercise provides adequate assurance that the plan can work for 1987 population and highway conditions.

The data summarized above are as follows:

Year	4 County Population	Average Daily Traffic
1982	447,826	5,490
1983	459,266	6,150
1984	474,643	6,790
1985	492,069	7,450
1986	504,117	
1987	516,167	

8. Since May 1985, the on-site fire service provider has withdrawn and been replaced by other fire service providers whose agreements with CP&L are inadequate under the SHERP.

On-site fire and emergency services at the time of the previous exercise were provided by the Apex Fire Department. Intervenors are informed and therefore assert that that Department has withdrawn from its agreement with CP&L to provide such services as required by SHERP, because of greatly increased development and population in that department's service area.

In place of the Apex Department, CP&L has arranged for certain of such services to be provided by the Fuquay Department, with the understanding that the Department will not respond in where it is inconsistent with its other responsibilities and commitments.

Of course the abilities of the replacement fire department has not been tested by any exercise, much less by a full scale exercise of its responsibilities at the Shearon Harris Plant, nor has the public any assurance that it will be able to respond in the event of an actual emergency at the Harris Plant.

Substantial factual issues regarding the actual provisions of the Company's agreement with the replacement department or departments, and as to those departments' training, resources and capabilities, must be resolved in the context of their integration with the other components of the SHERP, in order to serve the essential purpose of 10 C.F.R. Part 50, i.e., to demonstrate that reasonable and adequate provision has been made for the public safety by real, adequately trained and available resources and not just by amendments to the paper plan.

SUMMARY

There is no more reason to grant CP&L an exemption from conducting a full scale exercise now than there was before the May 1985 exercise. The point both then and now is to demonstrate the current adequacy of the SHERP by showing not merely that it exists, but that it works.

Intervenors respectfully contend that Applicant's request for exemption from the provisions of 10 C.F.R. Part 50, Appendix E should be denied summarily.

If the Commission determines to consider the exemption request, the provisions of Section 189(a) of the Atomic Energy Act, as well as the Commission's own regulations, require that the Intervenors' right to an evidentiary hearing be recognized, to litigate all of the issues of fact and law identified above, and that such hearing be conducted prior to the Commission's ruling on the merits of Applicant's exemption request.

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APPENDIX A

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The following document reviews the academic research which exists on evacuation plans for radiological accidents. Two types of studies currently exist: 1) retrospective accounts of the voluntary evacuation at Three Mile Island; and 2) surveys of public attitudes among those living near nuclear power facilities. Overall, the data suggest that the public reacts very differently to natural versus radiological disasters. While public officials find it difficult to convince people to evacuate their homes during natural disasters, radiological accidents produce so much fear that many more people will evacuate a much longer distance than requested to do so by public officials. This research suggests that adequate emergency planning for nuclear accidents cannot be based simply on planning for natural disasters, but must be based on the unique patterns of public response to radiological accidents.

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Human Reaction to Radiological Accidents: A Review of the Research

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At the time of the Three Mile Island nuclear accident in Pennsylvania, no community within five miles of the plant had an emergency response plan approved by the Nuclear Regulatory Commission (Cutter and Barnes, 1982). This raised serious concerns with the Presidential Commission on the Accident at Three Mile Island. The Commission delegated the study of such concerns to a special task force on Emergency Preparedness and Response. The Task Force recommended that before an operating license be granted to a nuclear facility, an evacuation plan must be reviewed and approved. This recommendation has been instituted (see Sills et al, 1982 for details of other recommendations). The Task Force on Emergency Preparedness and Response also noted that the assumptions upon which emergency plans were based were not well docmented (Dynes, 1982). As of 1982, emergency plans for nuclear accidents were based on data from research on "natural" and non-nuclear technological disasters. The Task Force recommended that research be undertaken to study actual human responses to evacuation specifically during radiological accidents at nuclear power plants.

Such research has now been completed (Cutter and Barnes, 1982; Johnson and Ziegler, 1983; Ziegler and Johnson, 1984; and Ziegler, Brunn and Johnson, 1981) and the results are clear and consistent: any evacuation related to a nuclear accident will include an EVACUATION SHADOW. An evacuation shadow is "the tendency of an official evacuation advisory to cause departure from a much larger area than was originally intended. (Ziegler, Brunn and Johnson, 1981, p.7)." That is, many more people will evacuate than officially advised to do so. Voluntary evacuation will occur at least as far as twenty-five miles from the accident. And most evacuees will travel over fifty miles from their homes.

There are two sets of research upon which the above conclusions are based. First, there have been at least three studies of the advisory evacuation at Three Miles Island (Cutter and Barnes, 1982; Ziegler, Brunn and Johnson, 1981; and Flynn,1979). These studies are mutually supportive, despite having been conducted independently at Rutgers University, Michigan State University, and for the Nuclear Regulatory Commission. Four components of the EVACUATION SHADOW were first identified in research on the Three Mile Island evacuation.

1)The number of actual evacuees far outnumbered those advised to do so:

-3,000 preschool children and 444 pregnant women were advised to evacuate.

- 144,000 people actually evacuated.

2)The geographic area from which people evacuated was 5 times as large as the advisory area.

-Pregnant women and children within 5 miles were advised to evacuate.

-39% of those within 15 miles actually evacuated

-9% of those between 15 and 25 miles away evacuated

3)The distances travelled by evacuees far exceed the distance advised.

Evacuees fled a median distance of between 85 and 100 miles.

4)Evacuees do not flee to shelters, whatever the official advice.

-74- 81% of evacuees feld to homes of friends and relatives.

-The maximum number of persons in any shelter at one time was 185.

A second set of studies (Ziegler and Johnson, 1984; Johnson and Ziegler, 1983) also support the existence of an EVACUATION SHADOW during potential nuclear accidents. A survey of 2,595 households on Long Island, NY provides a data base for analyzing potential behavior in response to a nuclear accident. In this research, respondents were asked how they intended to behave given three different scenarios of possible problems at the Shoreham Nuclear Power Plant. Three components of a potential EVACUATION SHADOW were identified.

1)The actual number of evacuees will far outnumber those advised to do so. And the geographic areas from which people will evacuate will be much larger than the advisory zone.

-If anyone within five miles of the plant is advised to shelter-in-place (e.g. stay inside with closed windows), 18-34% of the population between 10 and 25 miles plan to evacuate.

-If those within 5 miles are advised to evacuate, 25 -44% of those within 10 to 25 miles intend to evacuate.

-If those within 10 miles are asked to evacuate, 39 t0 63% of those within 10 to 25 miles intend to evacuate also.

2)The distances travelled by evacuees will far exceed the distances recommended.

- Over two-thirds of those who intend to evacuate under any circumstances, plan to travel over fifty miles.

3)Evacuees do not plan to flee to shelters, regardless of

official advice.
- 60% of potential evacuees plan to flee toward the homes of friends and relatives
- 18% of potential evacuess plan to flee to commercial establishments
- Only 6% to 8% of potential evacuees plan to go to shelters. (Some undecided)

Overall, this research suggests that the public fully intends to IGNORE official advice in the event of a radiological disaster. The public will respond with dramatic behavior in the event of a nuclear disaster, evacuating sooner than suggested, more people will evacuate than required or recommended, and those evacuees will travel farther than suggested.

These results are striking because they contradict what is known about evacuation behavior from studies of natural disasters. Research on natural and non-nuclear disasters has shown that individuals and families will only evacuate when confronted with direct sensory evidence or explicit and convincing warning messages (Drabek, 1969; Perry, 1979). Indeed, during non-nuclear accidents, emergency evacuation workers often have to persuade the public to evacuate their homes and land.

Therefore, any evacuation plan for a nuclear accident modelled after plans for non-nuclear accidents are destined to fail. The data does exist to correctly to specify emergency evacuation plans for nuclear accidents. But emergency planners must accept the reality that public behavior cannot be controlled and capitalize on predicted behaviors by incorporating such action into emergency response plans.

The research first suggested by the President's Commission on the Accident at Three Mile Island is now complete and the conclusions are important: emergency evacuation plans for nuclear accidents need to be based on different assumptions about human nature than any other evacuation plan. Emergency plans for possible nuclear accidents must include at least 25 miles because roads will be clogged by persons who reside outside the ten mile zone whether or not they are advised to evacuate. Voluntary evacuation beyond 25 miles will occur. It may even be that with the increased fear of radioactivity accompanying the Cherynobyl accident more people will evacuate from an even greater distance than the pre-Chernobyl research indicates.

Any evacuation plan for the event of a radiological accident at a nuclear power plant which does not include at least 25 miles is simply inadequate based on the most recent research by social scientists. The most excellent technical plan cannot work if it ignores the reality of human behavior.

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APPENDIX B

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(919) 737-3114

October 1, 1986

Between June 21 and July 3, 1986 Dr. Donald Tomaskovic-Devey and I conducted a telephone survey of registered voters in Wake and Chatham Counties. Respondents were selected randomly from lists of registered voters in both counties. Neither Carolina Power and Light Company nor the Coalition for Alternatives to Shearon Harris directed this survey.

Questions addressed the public's attitude toward nuclear energy in general and Shearon Harris in particular; the public's attitude toward the emergency plan; how the public intended to respond to a radiological emergency; and the importance of these issues politically, as indicated by whether it would become the basis for how respondents voted for political candidates.

The following is a one page summary of the results from those questions dealing with the emergency plan. In general, public confidence in the emergency plan seems quite low and the public expressed an intention to respond to a radiological emergency by self-evacuating even if not instructed to do so.

Barbara J. Risman

Barbara J. Risman, Ph.D.

Survey of Registered Voters in Wake and Chatham Counties: Voters' Attitudes toward the Shearon Harris Power Plant Evacuation Plan

Survey conducted by:
Dr. Donald Tomaskovic-Devey, Assistant Professor of Sociology
Dr. Barbara J. Risman, Assistant Professor of Sociology
Department of Sociology, Box 8107
North Carolina State University
Raleigh, North Carolina 27695.

Between June 21, and July, 3, 1986, a telephone survey was conducted of 549 registered voters in Wake and Chatham Counties. (Results have a ninety-five percent probability of being accurate within plus or minus four percent.)

The results on questions addressing the emergency plan are summarized below. In general, public confidence in the emergency plan seems quite low. Only a small minority of the public perceive the plan to be workable. In addition, it appears that if an accident occurs far more people will evacuate than will be advised to do so. This finding is consistent with research on the Three Mile Island evacuation of 1979 and with a survey of the intentions of residents near other nuclear plants. This "evacuation shadow" suggests that many more people may be on the highway than emergency planning has anticipated, and that many public-services support personnel may not be available.

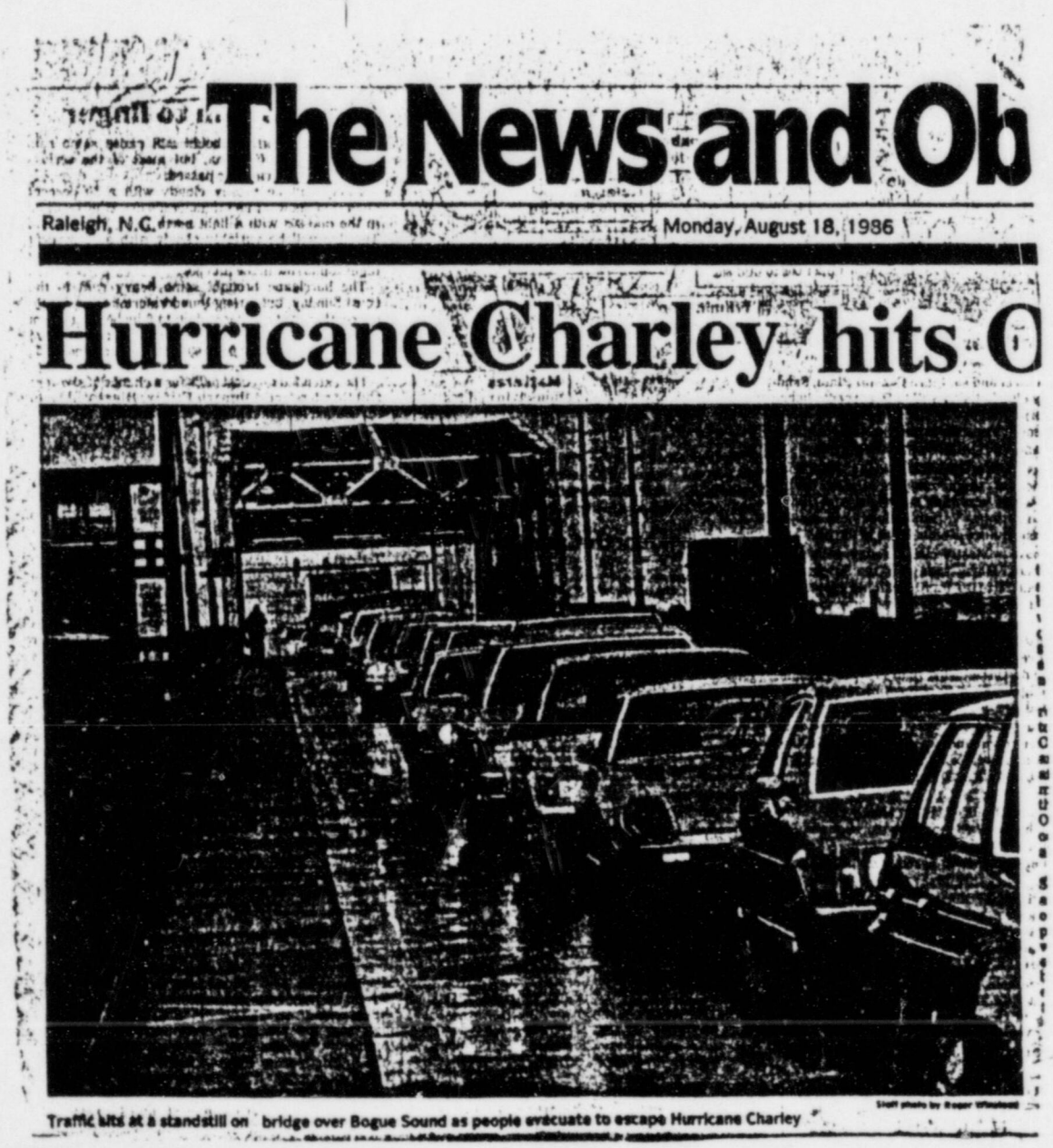
Percentage response rates were as follows:

(a) Public Perception of Workability: of those respondents who had heard of the evacuation plan, 40% believe it to be unworkable, 29% believe it to be workable, and the rest are undecided.

(b) Public Respone: of those respondents who live further than ten miles from the plant, 65% intend to evacuate in the event of an emergency, and an additional 14% were unsure as to their response. Of respondents with children in school, 68% expressed an intention to pick their children up at school rather than leave the evacuation of their children to county officials (as the plan requires).

(c) Size of the Zone: 81% of respondents thought that the evacuation zone should be extended beyond ten miles, while 9% were unsure, and 10% felt the ten mile zone to be adequate.

APPENDIX C



The News and Ob

Raleigh, N.C. ... Monday, August 18, 1986

Hurricane Charley hits C

Traffic sits at a standstill on bridge over Bogue Sound as people evacuate to escape Hurricane Charley

APPENDIX D

MEMORANDUM OF AGREEMENT

Between

North Carolina Memorial Hospital

and

RADIATION PROTECTION SECTION
N. C. DEPARTMENT OF HUMAN RESOURCES

1. SCOPE/PURPOSE:

The purpose of this agreement is to support the State's radiation emergency response planning effort by providing for the hospitalization, decontamination and treatment of persons who may have received radiation exposure or may be contaminated with radioactive material as a result of incidents or accidents involving radioactive material. This agreement is applicable only to such persons who, in the opinion of the admitting physician(s), require hospitalization for observation, diagnosis or treatment.

2. EXCLUSION:

This agreement does not apply to any nuclear electric generating plant employees who may be contaminated with radioactive material or exposed to radiation as a result of their employment at a nuclear electric generating plant. This agreement also excludes any person who is solely in need of decontamination and for whom hospitalization is not medically indicated in the opinion of the admitting physician(s).

3. CONFIRMATIONS AND AGREEMENTS:

The above named hospital

a. has developed procedures for managing patients who have been exposed to radiation or who are contaminated with radioactive material,

b. possesses facilities and equipment which will be available for the management and care of such patients, and

c. will admit, decontaminate and treat patients as defined in Item 1 of this agreement, subject to the exclusion in Item 2 of this agreement.

The Radiation Protection Section

a. upon request of the above named hospital, will provide trained radiation specialists with appropriate radiation survey instrumentation to assist in monitoring, and render health physics consultation as needed,

b. upon request of the above named hospital, will provide radiation laboratory analysis services, and

c. upon request of the attending physician, will arrange for medical consultation as available from within the State or through the Federal government.

4. AMENDMENT OR TERMINATION OF AGREEMENT:

This agreement may be terminated by the above named hospital at any time upon written notification to the Radiation Protection Section, and may be amended in writing upon the mutual agreement of the above named hospital and the Chief, Radiation Protection Section.

Date

Dayne H. Brown, Chief
Radiation Protection Section

8-21-86
Date

William D [signature]

Administrator

APPENDIX E

Denise B. Talley
Notary Public
9-26-86

State of North Carolina
County of Chatham

From: Virginia Ryan
P.O. Box 89
Bonlee, NC 27213

I am a public health sanitarian for the Chatham County Health Department in North Carolina.

Our county is responsible for a 10 mile evacuation zone inside our county line around the Shearon Harris Nuclear Power Plant which is located in Wake County near Raleigh, our state capital.

Opinions held by all of the Health Department public health nurses and sanitarians assigned to evacuation shelters (which are the three high schools in our county) are that the training and preparedness in the event of a nuclear accident at the Shearon Harris Plant has been severely lacking.

Most of the Public Health Nurses have not been briefed at all as to their duties and reponsibilites to be carried out within the shelters.

Those of us (including myself) that received the briefing prior to the May 1985 evacuation drill conducted in the four counties surrounding the plant feel the briefing was inadequate and consisted for the most part of being issued a dosimeter and having a photograph made for identification purposes.

I personally found the drill at the shelter in which I was assigned to be highly insufficient. Communications were confusing with the control center, objectives for the drill were unclear, and there was no feedback from the Emergency Service Co-ordinator in our county providing for a consensus that our shelter was "set-up" in the most efficient manner.

I understand that the NRC will be reviewing a request from Carolina Power & Light that an exemption from conducting another full-participation drill be granted.

I am writing on behalf of all of the Public Health workers in Chatham County assigned to an evacuation shelter to stress our need and desire for another full-participation evacuation drill before the Shearon Harris Plant goes into commercial use.

In August of 1986 I sent to Chairman Zech a copy of a statement given to the three pertinent agency directors in our county expressing our reluctance to respond in the event of a nuclear accident for the most part due to the fact that our training and briefing has been so inadequate.

Another full-participatory drill would enable us to resolve some of the problems that are not yet resolved and give those who were not assigned to a shelter in 1985 the chance to participate in a drill and feel more prepared to act responsively should a real need arise.

Therefore, I request that the NRC compel Carolina Power and Light to conduct a Full Participation Emergency Exercise of the Replacement Plan before operation of the Shearon Harris Plant is authorized.

I have written the above statement and believe that it is a true and accurate statement of the events and occurences described therein.

Name: Virginia Ryan Date: 9/26/86

State of North Carolina
County of Chatham

From: Tracy Atkins, Sanitarian (Mrs. Atkins has recently taken a position with Wake Co. Health Dept.)
Sue Fields, R.N.
Joseph L. Salyer, Sanitarian
Karen Davis, Sanitarian-In-Training
Gregory T. Grimes, R.S.
Sheree F. Smith LPN
Chatham County Health Department
Chatham County, NC

On July 11, 1986, a memo containing the following statement was sent to the Departmental Directors of the Chatham County Health Department, the Chatham County Department of Social Services, the Orange, Person, Chatham Department of Mental Health, and Mark Scott, Chatham County Emergency Manager:

> We wish to make known that in the case of a natural disaster, we would most certainly be willing to assist at our currently assigned shelters and are willing to participate in county wide evacuation drills whenever they may be scheduled. However, in relation to a nuclear disaster, we cannot commit ourselves to responding to our assigned evacuation shelter. The safety and welfare of our respective families will become first priority.

I have written the above statement and believe that it is a true and accurate statement of the events and occurences described therein.

Name: Sue F. Fields R.N. Date: 9/26/86
Name: Gregory T. Grimes, R.S. Date: 9/26/86
Name: Sheree F. Smith LPN Date: 9/26/86
Name: Joseph L. Salyer Date: 9/26/86
Name: Karen M. Davis Date: 9/26/86

Denise B. Talley
Notary Public
9-26-86

State of North Carolina
County of Chatham

From: Virginia Ryan, Sanitarian
Betty M. Phillips, Supr. I, R.N.
Kathy Davis, R.N., Public Health Nurse II

District Health Department
Chatham County, NC

On July 11, 1986, a memo containing the following statement was sent to the Departmental Directors of the Chatham County Health Department, the Chatham County Department of Social Services, the Orange, Person, Chatham Department of Mental Health, and Mark Scott, Chatham County Emergency Manager:

> We wish to make known that in the case of a natural disaster, we would most certainly be willing to assist at our currently assigned shelters and are willing to participate in county wide evacuation drills whenever they may be scheduled. However, in relation to a nuclear disaster, we cannot commit ourselves to responding to our assigned evacuation shelter. The safety and welfare of our respective families will become first priority.

I have written the above statement and believe that it is a true and accurate statement of the events and occurences described therein.

Name: Virginia Ryan R.S. Date: 9/26/86

Name: Betty M. Phillips, R.N. Date: 9-26-86

Name: Kathy W. Davis, R.N. Date: 9-26-86

Denise B. Talley
Notary Public
9-26-86

State of North Carolina
County of Chatham

From: Ann Tipton, L.R.N.
Home Health Agency/Chatham County Evacuation Shelter Assignee
Chatham County, NC

On July 11, 1986, a memo containing the following statement was sent to the Departmental Directors of the Chatham County Health Department, the Chatham County Department of Social Services, the Orange, Person, Chatham Department of Mental Health, and Mark Scott, Chatham County Emergency Manager:

> We wish to make known that in the case of a natural disaster, we would most certainly be willing to assist at our currently assigned shelters and are willing to participate in county wide evacuation drills whenever they may be scheduled. However, in relation to a nuclear disaster, we cannot commit ourselves to responding to our assigned evacuation shelter. The safety and welfare of our respective families will become first priority.
>
> In any disaster, if my family were in immediate danger - they would be my first priority. The evacuation center I am assigned to is not the one I feel like I should report to.

I have written the above statement and believe that it is a true and accurate statement of the events and occurences described therein.

Name: Ann Tipton, LPN Date 9-26-86

Denise B. Talley
Notary Public
9-26-86

State of North Carolina
County of Chatham

From: Patty Poole, R.N.
Home Health Agency/Chatham County Evacuation Shelter Assignee
Chatham County, NC

On July 11, 1986, a memo containing the following statement was sent to the Departmental Directors of the Chatham County Health Department, the Chatham County Department of Social Services, the Orange, Person, Chatham Department of Mental Health, and Mark Scott, Chatham County Emergency Manager:

> We wish to make known that in the case of a natural disaster, we would most certainly be willing to assist at our currently assigned shelters and are willing to participate in county wide evacuation drills whenever they may be scheduled. However, in relation to a nuclear disaster, we cannot commit ourselves to responding to our assigned evacuation shelter. The safety and welfare of our respective families will become first priority.
>
> If I'm not mistaken, my home is within approximately the same distance from Shearon Harris as Chatham Central High School. If my family were in immediate danger from any disaster, they would have to be my first priority. If the disaster caused high levels of radiation at Chatham Central, I'm not sure I would respond to that evacuation shelter.

I have written the above statement and believe that it is a true and accurate statement of the events and occurences described therein.

Name: Patty Poole, RN Date: 9-26-86

Denise B. Talley
Notary Public
9-26-86

State of North Carolina
County of Chatham

From: Theresa Davis, R.N.
Home Health Agency/Chatham County Evacuation Shelter Assignee
Chatham County, NC

On July 11, 1986, a memo containing the following statement was sent to the Department Directors of the Chatham County Health Department, the Chatham County Department of Social Services, the Orange, Person, Chatham Department of Mental Health, and Mark Scott, Chatham County Emergency Manager:

We wish to make known that in the case of a natural disaster, we would most certainly be willing to assist at our currently assigned shelters and are willing to participate in county wide evacuation drills whenever they may be scheduled. However, in relation to a nuclear diaster, we cannot commit ourselves to responding to our assigned evacuation shelter. The safety and welfare of our respective families will become first priority.

I also feel that we have not had adequate training in caring for "radiation sickness" in a nuclear emergency. I did not participate in the drill last year due to other obligations. We need to be educated and informed and not just told where to be in the event of a nuclear emergency. We all have alot at stake here!

I have written the above statement and believe that it is a true and accurate statement of the events and occurences described therein.

Name: Teresa S Davis RN Date: 9-30-86

Denise B. Talley
Notary Public
9-30-86

State of North Carolina
County of Chatham

From: Jan Ritterspoon, R.N.
Home Health Agency of Chatham County
Chatham County, NC

On July 11, 1986, a memo containing the following statement was sent to the Departmental Directors of the Chatham County Health Department, the Chatham County Department of Social Services, the Orange, Person, Chatham Department of Mental Health, and Mark Scott, Chatham County Emergency Manager:

> We wish to make known that in the case of a natural disaster, we would most certainly be willing to assist at our currently assigned shelters and are willing to participate in county wide evacuation drills whenever they may be scheduled. However, in relation to a nuclear disaster, we cannot commit ourselves to responding to our assigned evacuation shelter. The safety and welfare of our respective families will become first priority.
>
> I am appalled by the dishonesty of our so-called nuclear evacuation plan! In 1985 the Home Health nurses were laughing at the ludicrous idea of using only 2 ambulances assigned to pick up all the patients living within the 10 mile area - the whole plan was a joke! The plan didn't even ask for the patients' names and addresses - just pins stuck on the Chatham County map. What about the many other handicapped and elderly people of Chatham County? Who will pick up the many poor people who do not have cars?
>
> Now in 1986 the nuclear evacuation plan has not improved - and the Home Health nurses are no longer laughing, but are very concerned. Will the evacuation sites be far enough away from the accident? With families in danger, who of the nuclear evacuation shelter assignees will be at the sites? I wish our representatives and Carolina Power and Light would just admit that there is no effective nuclear disaster plan - that, at least, would be honest.

I have written the above statement and believe that it is a true and accurate statement of the events and occurences described therein.

Name: Jan Owens RN Date: 9/26/86

Denise B. Talley
Notary Public
9-26-86

State of North Carolina
County of Chatham

From: Lynn D. Creamer , R.N.
Home Health Agency of Chatham County
Chatham County, NC

On July 11, 1986, a memo containing the following statement was sent to the Departmental Directors of the Chatham County Health Department, the Chatham County Department of Social Services, the Orange, Person, Chatham Department of Mental Health, and Mark Scott, Chatham County Emergency Manager:

> We wish to make known that in the case of a natural disaster, we would most certainly be willing to assist at our currently assigned shelters and are willing to participate in county wide evacuation drills whenever they may be scheduled. However, in relation to a nuclear disaster, we cannot commit ourselves to responding to our assigned evacuation shelter. The safety and welfare of our respective families will become first priority.
>
> I am a new employee of Chatham County and was given an assignment to Northwood H.S. with no explanation of what my role is to be at the evacuation shelter. I feel I do not have the skills to care for persons with radiation injuries. I am concerned over the health of my community, yet if weather was such that radiation levels were rising in the vicinity of the H.S., I hesitate to say I would be willing to report there. I am sure that there are other new employees in the county who have roles in the evacuation plan but have received neither written or verbal instructions about that assignment, and that did not participate in the original Disaster Drill.

I have written the above statement and believe that it is a true and accurate statement of the events and occurences described therein.

Name: Lynn D. Creamer, RN Date: 9/24/86

Denise B. Talley
Notary Public
9-24-86

State of North Carolina
County of Chatham

From: Helen Jernigan, R.N.
Nursing Supervisor
District Health Department Home Health Agency
Chatham County, NC

Re: County Evacuation Shelter Assignees

The assignment of (Home Health) nurses to centers was made as part of what employees of the District Health Department were to do. Inadequate training was received. Inappropriate assignments were made. As supervisor of the Home Health Agency I am concerned about my staff, but very concerned about my patients. As the supervisor I was asked to only mark with a red dot the approximate residences of home health patients in the critical zone. Supposedly they would be picked up by ambulances (these people are homebound and often bedridden). I was not asked for names, addresses, directions or precautions. And, of course, I have never been asked to update anything. If an accident occured tomorrow, believe me, none of those patients would be moved in any appropriate manner.

My concern about this, as well as that of the Council of Aging, has been made known to Carolina Power and Light.

Let's plan better, please!

I have written the above statement and believe that it is a true and accurate statement of the events and occurences described therein.

Name: Helen Jernigan RN Date: 9/26/86

Denise B. Talley
Notary Public
9-26-86

North Carolina Department of Crime Control and Public Safety

James G. Martin, Governor
Joseph W. Dean, Secretary

Division of Emergency Management
116 W. Jones St., Raleigh, N. C. 27611
(919) 733-3867

July 18, 1986

MEMORANDUM

TO: David Crisp

FROM: Rebecca Disosway

SUBJECT: Chatham Hospital Meeting

Russ Johnston, Johnny James and I attended a meeting on July 17 at Chatham Hospital to discuss the hospital's options concerning treatment of radiation victims.

The meeting centered around a CP&L presentation by Billy Webster discussing the utility's evaluation of the hospital's emergency plan and additional equipment that CP&L has offered to supply to the hospital to enhance its emergency response effort. Webster emphasized the need for the hospital to have improved capabilities to handle all types of radiation accidents.

About 25 people attended the meeting, the majority of whom were hospital staff and doctors. Frank Bern, hospital administrator, also attended the meeting. WRAL-TV and reporters from two newspapers were also present.

Several questions were raised about specific equipment and the hospital's role in a nuclear power plant accident. Many of the staff were concerned about having several hundred people arrive at the hospital complaining of radiation sickness and contamination; the hospital does not have the facilities or the staff to handle this large number of people.

Webster and Russ Starkey of CP&L answered questions about nuclear power and radiation, and they downplayed the possibility of a plant accident affecting the public. Johnny James addressed several questions related to RPS's role in the plan. Russ Johnston offered to hold another course at the hospital for those staff members who had missed the previous course. (Only about eight people attended that course.)

No decisions were made in the meeting as to the hospital's course of action. The administrator seemed to be interested in upgrading the hospital's capabilities, but several of the doctors were skeptical as to the effectiveness of existing plans for responding to a Shearon Harris accident. These doctors appeared to be very knowledgable of current issues concerning Shearon Harris and the N.C. Emergency Response Plan in support of the plant.

pc: Russ Johnston
Al Joyner
Bob Buchanan
Vance Kee
James Self
Joe Myers

October 6, 1986

UNITED STATES
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

In the Matter of CAROLINA POWER & LIGHT COMPANY and NORTH CAROLINA EASTERN MUNICIPAL POWER AGENCY (Shearon Harris Nuclear Power Plant)	Docket No. 50-400 OL

CERTIFICATE OF SERVICE

This is to certify that on this date copies of the foregoing Brief of Intervenors Eddleman and Coalition for Alternatives to Shearon Harris, dated October 6, 1986, were served upon the persons shown on the Service List as follows:

1. Copies of the said Brief were served upon the persons named below (in Paragraph 1) by hand delivering copies of the same to the Docketing and Service Section, Office of the Secretary, Nuclear Regulatory Commission, Washington, D.C., on October 6, 1986, with a separate copy being addressed to each of the persons named hereafter:

Lando W. Zech, Jr.
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner Thomas M. Roberts.
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner James K. Asselstine
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner Kenneth Carr
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Commissioner Frederick M. Bernthal
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Thomas S. Moore, Esquire
Chairman
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Reginald L. Gotchy
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Howard A. Wilber
Atomic Safety and Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

James L. Kelley, Esquire
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Glenn O. Bright
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. James H. Carpenter
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Charles A. Barth, Esquire
Janice E. Moore, Esquire
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(one original and two conformed copies)

2. Copies of the said Brief were served upon the persons and parties named below (in this Paragraph 2) by depositing them in the United States Express Mail, postage prepaid, on October

6, 1986, addressed as follows, to each of the following:

Richard E. Jones, Esquire
Vice President and Senior Counsel
Carolina Power & Light Company
P.O. Box 1551
Raleigh, N.C. 27602

Thomas A. Baxter, Esquire
SHAW, PITTMAN, POTTS, & TROWBRIDGE
2300 N Street, N.W.
Washington, D.C. 20036

Bradley W. Jones, Esquire
U.S. Nuclear Regulatory Commission
Region II
101 Marrietta Street
Atlanta, Ga. 30303

3. Copies of the said Briefs were served upon the persons and parties named below (in this Paragraph 3) by depositing them in the U.S. Mail, first class postage prepaid, on October 6, 1986, addressed as follows, to each of the following:

Mr. Daniel F. Read, President
CHANGE
P.O. Box 2151
Raleigh, N.C. 27602

Mr. Robert P. Gruber
Executive Director
Public Staff - North Carolina Utilities Commission
P.O. Box 991
Raleigh, N.C. 27602

Travis Payne, Esquire
Edelstein and Payne
P.O. Box 12607
Raleigh, N.C. 27605

Dr. Richard D. Wilson
729 Hunter Street
Apex, N.C. 27502

Dr. Linda W. Little
Governor's Waste Management Board
513 Albemarle Building
325 North Salisbury Street
Raleigh, N.C. 27601

Honorable Lacy Thornburg
Attorney General of North Carolina
H.A. Cole, Jr., Esquire
Special Deputy Attorny General
200 New Bern Avenue
Raleigh, N.C. 27601

Joseph Flynn, Esquire
Federal Emergency Management Agency
500 C Street, S.W.
Washington, D.C. 20740

Steven Rochlis, Esquire
Regional Counsel
Federal Emergency Management Agency
1371 Peachtree Street, N.E.
Atlanta, Ga. 30309

This the 6th day of October, 1986.

Steven P. Katz