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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
before the
ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)

PUBLIC SERVICE COMPANY OF)
NEW HAMPSHIRE, et al.)

(Seabrook Station, Units 1 and 2))

Docket Nos. 50-443-OL
50-444-OL

(Off-site Emergency
Planning Issues)

APPLICANTS' OBJECTION IN THE NATURE OF A MOTION
IN LIMINE TO THE ADMISSION IN EVIDENCE OF
THE PREFILED TESTIMONY OF DR. HOWARD HARRIS

Applicants object to and move this Board in the nature of a motion in limine to exclude as evidence in this proceeding the "Testimony of Dr. Howard Harris on Behalf of James M. Shannon, Attorney General for the Commonwealth of Massachusetts, Concerning JI-13 and MAG EX-11 (Training)" [hereinafter "Testimony"]. In support of their motion, Applicants say that the Testimony is not material or relevant to any issue presently before this Board.

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SUMMARY OF TESTIMONY

The Testimony announces its intent to address JI 13, which concerns the alleged inadequacy of the prerequisites and training for eight specific ORO positions, but the witness instead examines the process through which the SPMC's training program was developed. The witness's purpose, he writes, is to assess "the overall design of the SPMC's training" and not the content of that training. Within this concededly "broad conceptual framework," Dr. Harris postulates a need for "meaningful verbal learning." He describes learning as the act of understanding new material in relation to previous knowledge and experience. Then, instead of examining the previous experience associated with each of the prerequisites specifically at issue, the Testimony makes only the general supposition that all trainees may not have significant relevant experience.

The Testimony's remaining paragraphs discuss a theory called "the psychology of meaningful verbal learning" and apply the theory to the Training System Development ("TSD") process used by the SPMC. The theory, according to the witness, calls for repeated exposure to new concepts and a sequence of instruction that moves from general information to specific issues. Dr. Harris goes through the conceptual elements of TSD and, in every case, concludes that the design of the NHY ORO training program does not provide sufficient

documentation, explanation, or structure to insure that such repetition or sequential movement takes place. Dr. Harris concludes not that any training itself is inaccurate or incomplete but that the training program as a whole needs to be redesigned.

ARGUMENT

The Testimony lies outside the scope of the contentions still being litigated in this proceeding. Specifically, the Attorney General of Massachusetts ("Mass AG") has withdrawn the one contention, JI 14, that would have raised a general attack on the overall design of Applicants' training program. Moreover, although the Testimony is offered to support JI Contention 13, see Testimony at 4; Trial Brief of the Massachusetts Attorney General [hereinafter "Trial Brief"] at 29 (April 10, 1989), that contention is concerned predominantly with the prerequisite experience for particular ORO positions and incorporates the issue of the content of training only as a substitute for experience. Finally, despite the Mass AG's suggestion that the Testimony is relevant to MAG Ex-11, that contention does not support the Testimony's general attack on the overall design of the SPMC's training program.

The only contention that would have supported the Testimony was JI Contention 14. JI 14, which questioned the adequacy of the ORO's training, was focused and defined by

its Basis, which criticized the overall quality of the training process. It stated,

A review of the ORO training modules and information received from those who have received ORO training indicates that the training is entirely too general in nature, is much too brief, is not well done [emphasis added], and does not qualify ORO staffers to perform their jobs under the difficult and confusing circumstances that will prevail in the event of a serious radiological emergency at Seabrook Station.

Joint Intervenor (JI) Contentions on the Seabrook Plan for Massachusetts Communities (SPMC), at 36 (October 28, 1988).

That JI 14 was a general critique of training technique, as opposed to the position-specific criticisms of JI 13, is confirmed by an examination of the original MAG 79 (incorporated in JI 13) and MAG 80 (incorporated in JI 14). The NRC staff also observed the difference in character between the two contentions. When it first responded to the contentions, the staff raised no objection to MAG 79 (JI 13) provided it was "limited to the examples set out in the bases for the contention." The staff objected, however, to the "broad generalizations about the inadequacy of the utility training program" in MAG 80 (JI 14). NRC Staff's Response to Contentions Filed by Towns of Amesbury, Newbury, Salisbury and West Newbury, the Cities of Haverhill and Newburyport, and by the Massachusetts Attorney General, NECNP and SAPL, at 63-64 (June 17, 1988). The staff argued that MAG 80 (JI 14) did "not provide notice of any specific issue to be

litigated" and "should be rejected for lack of . . . specificity." Id.

When the Mass AG replied to the Applicants' and Staff's objections, he explicitly claimed that the "issue" in MAG 80 (JI 14) was "the adequacy of the training modules." Reply of the Massachusetts Attorney General to the Response of the NRC Staff and the Applicants to Contentions 7 Through 83 Filed by the Massachusetts Attorney General, at 50 (June 22, 1988). Mass AG himself, then, recognized the distinction between the specific concern in JI 13 for the content of any training that would compensate for experience and the general criticism in JI 14 of the design of Applicants' entire training program.

Joint Intervenor Contention 14, however, was withdrawn as part of the February 7, 1989 stipulation that was agreed to and signed by Applicants and the Mass AG. See Joint Stipulation Regarding Status of Admitted Contentions ["Stipulation"], at 2-4 (February 7, 1989). The Stipulation withdrew JI 14 and most of the version of JI 13 contained in the October 28, 1988 version of the contentions. Significantly, the present JI 13 adopts no language from JI 14. Each of Bases A, B, and D of JI 13 now contain the same claim--that training cannot compensate for inadequate experience--which the corresponding bases in the previous version of JI 13 included. And the present Basis C to JI 13, by alleging that neither the PAR decision-makers' experience

nor their training will enable them to make appropriate choices, also attacks the content, and not the design, of the training provided. Any claim Intervenor had to present testimony criticizing the design of the SPMC's training program was withdrawn along with JI Contention 14.

Mass AG is bound by the Stipulation. The withdrawal of JI 14 was part of the overall stipulation, which involved consideration for both sides. The specific exchange involved relative to JI 14 was withdrawal of that contention (and the narrowing of JI 13) in exchange for treating training as a Second Part -- i.e., April 3 instead of February 21 -- issue. Mass AG, having taken the benefit of that stipulation, cannot now be heard to renounce it. Kansas Gas & Electric Company (Wolf Creek Generating Station, Unit 1), LBP-84-26, 20 NRC 53, 58 n.2 (1984), aff'd, ALAB-798, 21 NRC 357 (1985). Because Mass AG has expressly withdrawn the only contention that would have supported a general, theoretical criticism of Applicants' training program, the Testimony should be excluded as irrelevant.

JI 13, and Bases A, B, and D, raise the issue of training only by asserting, in the last sentence of each basis, the perfunctory statement that "The training provided by the SPMC is not adequate to compensate for this deficiency." This allegation, by using the term "compensate," challenges the sufficiency, or content, of training as a substitute for particular stated prerequisites.

In Basis C, it is the end result of training, the ability of ORO personnel "to make appropriate PAR decisions," not the process used to train, that is alleged to be inadequate. The Testimony, on the other hand, by evaluating the "overall design" of the training performed against the "psychology of meaningful verbal learning," constitutes a general, theoretical attack upon the entire structure of Applicants' training program. For example, it alleges that the SPMC lacks an "overall instructional plan," questions whether what is presented in the classroom will be "reinforced" through drills and exercises, and challenges a perceived emphasis on "guidelines and policies" over "learning theory" and "instructional methodology." Testimony, 11-12. By ignoring the eight ORO positions put at issue in JI 13 and instead choosing to find fault with the design of the SPMC's training, the Testimony goes far beyond the scope of JI Contention 13.

Mass AG also argues that the Testimony is offered to address Contention MAG EX-11, Basis B() . Trial Brief at 28-29. Basis B(3) alleges that "The Exercise demonstrates a fundamental need for greater flexibility in shaping appropriate PARs for the Massachusetts communities." When the Board admitted MAG EX-11, it observed that the

contention and its bases challenge ORO's judgment in making PARs, asserting that that judgment was flawed. We therefore will treat this contention as asserting a fundamental flaw in ORO's training program which is required by sec. 50.47(b)(14),

(15), and (16), and par. IV of App. E. If after hearing, the Attorney General's allegations concerning ORO's lack of judgment in making PARS are substantiated, significant revisions in the training program may be required.

Memorandum and Order (Ruling on June 1988 General Exercise Contentions), at 33-34 (Dec. 15, 1988).

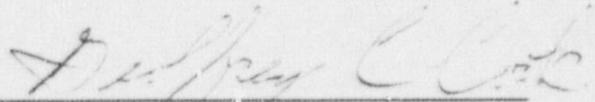
The Board's conclusion that MAG EX-11 chiefly alleges errors in judgment makes it manifest that the thrust of this contention is how well the substantive content of the ORO's training prepares trainees to make decisions, not the details of the process by which the training proceeds. Moreover, the NRC regulations cited by the Board, which define the purpose and the evaluation of training, concentrate on content. In particular, Appendix E, paragraph IV, subpart F of 10 CFR Part 50, which requires a description of the training program, states that the purpose of exercises is to "test the adequacy of timing and content [emphasis added] of implementing procedures and methods . . . and ensure that emergency organization personnel are familiar with their duties." Finally, subpart F's focus on the need to correct any "weak or deficient areas" in training demonstrates that knowledge of the subject matter is the relevant issue. In sum, though the Board has interpreted Basis (B)(3) to challenge the adequacy of the ORO's training, the basis indicts the ability to choose appropriate PARS, which reflects the content of specific training, not the design used in planning and creating the overall training program.

Therefore, the Testimony, with its general attack on training design, also falls outside of Contention MAG EX-11.

CONCLUSION

For the reasons stated above, the Testimony should be excluded.

Respectfully submitted,



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