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NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
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In the matter of:

PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE, et al

Docket Nos.

50-443 OL
50-444 OL

(Seabrook Station, Units 1 and 2)

SAPL'S REPLY TO STAFF'S RESPONSE TO SAPL'S SUPPLEMENTAL PETITION FOR
LEAVE TO INTERVENE

The following constitutes SAPL's reply to objections raised by Staff concerning SAPL's local emergency planning contentions.

SAPL LP-2

Staff interprets this contention as concerned solely with the identification of response organizations obligated to engage in public notification. The Staff's interpretation is incorrect. While SAPL does not expect the names of specific, responsible individuals, it does expect an identification of the number of persons from each response organization required to do the job. This identification is crucial, since, as stated in the contention's basis;

If the plans contemplate the use of police, fire, or other emergency personnel for this function, they must specifically so state, since engagement and notification will preclude performance of other pressing duties such as traffic control, medical response, communications coordination, monitoring radiation, or any number of other duties assigned by the plans.

SAPL LP-8

Staff interprets this contention as being entirely unconcerned with the radiological decontamination of wounds. On the contrary, SAPL is extremely concerned about the radiological decontamination of wounds, but is willing to address that issue within the context

of SAPL LP-9, a contention for which neither the Staff or Applicants have filed an objection. Under the assumption that this point will be litigated under SAPL LP-9, SAPL is willing to withdraw "decontamination of wounds" from the list of issues in SAPL LP-8.

SAPL LP-10

SAPL voluntarily withdraws SAPL LP-10 as the appropriate cross referencing has now been provided to the parties.

SAPL LP-11

SAPL strenuously objects to the Staff's characterization of SAPL LP-11 on the ground that it "appears to be nothing more than an attempt to re-litigate evacuation time estimates." It is SAPL's position that such an argument rests on invalid assumptions and goes directly to the merits of the contention, an area which Staff agrees is irrelevant to admissibility of the contention. Clearly, neither the state nor local emergency plans were available at the time that FSAR evacuation time estimates were litigated in August, and SAPL was not able at that time to make a determination as to whether behavioral variation would be addressed in the plans. Therefore, it could not possibly have filed contentions for the August hearings based on this issue.

Further, to assume that the only factual consequence of behavioral variation is a lengthening of evacuation time is entirely incorrect. Indeed, SAPL's position is that emergency personnel resources in all the towns are insufficient to ensure a safe, orderly evacuation. The evidence will show that panic and other behavioral variations will require increased security personnel as well as the increased provision for towing and other physical support services.

Behavioral impacts affect not only evacuation time estimates, but in fact the health and safety of evacuees. Therefore, the issue of behavioral impacts goes far beyond mere evacuation times, and must be analyzed by the Applicants within the context of the state and local RERPs.

Further, it is interesting to note that Staff cites NUREG-0654 planning criteria as being designed to "provide an orderly, safe evacuation and thereby minimize hysterical reactions and potential chaos." (Citing Louisiana Power & Light Company (Waterford Steam Electric Station, Unit 3), LBP-82-100, 16 NRC 1550, 1562 (1982)). SAPL agrees with that statement. That is precisely why those criteria mandate an analysis of behavioral impacts. (See NUREG-0654, Rev. 1, Appendix 4, IV.B.

SAPL LP-12

It is not SAPL's position that reduced reliability of emergency personnel will only result in the lengthening of the time it will take to carry out assigned duties. Rather, although in some cases emergency personnel may respond to duty after seeing to the safety of their families, it may well be that many will not respond at all. Therefore, Staff's interpretation of SAPL LP-12 is incorrect on that point.

SAPL LP-13

Again, Staff has mischaracterized the nature of SALP LP-13 by suggesting that it is "limited by its basis to the Hampton Police and Fire Departments." On the contrary, SAPL refers to the Hampton situation only as an example of the truthfulness of its contention in general. Although SAPL will certainly define the application of

this contention to specific towns during the discovery process, it refrains from doing so now, and stands on the language of the contention as submitted. In short, we refer to the Town of Hampton as an example of the problem, and not the sole instance of the problem.

SAPL LP-14

It is SAPL's position that some statement of assumptions must be provided within the framework of the local plans. It is not our intention to state at this time what those assumptions should be. However, it is not implicit in the contention or its statement of basis that SAPL is attempting an impermissible challenge to the Staff's commission regulations. Therefore, SAPL stands on the contention and its basis as submitted.

SAPL LP-15

The Staff does not object to this contention were it redrafted to assert the necessity of having "relevant" communications and informational material presented to the evacuee population in both French and English. SAPL therefore amends the wording of SAPL LP-15 to read as follows:

Procedures to provide early notification and clear instruction to the populous within the Plume Exposure Pathway EPZ required by 10 CFR Section 50.47(b)(5) are inadequate in that the plans do not provide for relevant bilingual messages for the large numbers of French speaking individuals who are often in the area in large numbers. In addition, SAPL would like to add as a third paragraph in its statement of basis, the following:

Examples of "relevant" communications which must be biligual include all information considered to be part of emergency notification, as well as protective response instructions related to evacuation, sheltering or any other protective response.

SAPL strongly urges this Board to allow litigation of evacuation time estimates with respect to the recent Evacuation Time Study submitted as Appendix E to the local RERPs. This study was not available prior to September, and therefore was not litigated in Phase I of these proceedings. Moreover, the study was prepared specifically in accordance with the requirements of NUREG-0654, and is meant to provide the evacuation time estimate guidance for the state and local RERPs. Appendix E involves different methodologies, different data basis, and produces different results than the evacuation time estimates litigated in August with respect to the Applicants' FSAR. Therefore, contentions based on the newly released Evacuation Time Study are not res judicata with respect to Phase I of these proceedings.

In support of its position, SAPL wishes to point out the observations made by the Appeals Board in the Order of August 26th. In commenting on this Board's partial summary disposition of time estimate issues, the Appeal Board stated:

"Moreover, we are unprepared to assume for present purposes that there is a high probability that the Licensing Board would reject as untimely a further contention put forth by the Coalition once actual evacuation routes have been selected and announced. In adopting its Catawaba rationale, the Commission expressly relied on the traditional willingness of Licensing Boards to apply the lateness criteria generously to admit late-filed safety contentions on a showing of good cause. (Footnote omitted.) And the licensing board appears to understand its responsibilities in this regard." (See Memorandum and Order, August 26, 1983 at 8-9.)

Clearly, and in this instance, the unavailability of Appendix E until recently meets the requisite "good cause" threshold.

Therefore, SAPL reserves its right to submit contentions based on that document within the 30-day time frame approved by this Board.

SAPL LP-18

The Staff has objected to the admission of this contention on the grounds that it does not specify the resources or the towns involved with sufficient detail to put the parties on notice as to what they will be required to defend against or oppose. It should be noted that the Applicants, on the other hand, do not oppose admission of this contention as worded.

In order to address the Staff's concern in this area, SAPL proposes to amend the SAPL LP-18 statement of basis to read as follows:

Basis: Although the plans provide that the towns may seek outside assistance for various purposes, including transportation and material deficiencies, there has been no assessment of the scope and extent of aid that may be needed, nor are there any explicit written agreements to confirm the arrangement and the availability of resources. An example of the resources which will be needed, but are not verified through agreement letters, are bus transportation services, emergency medical vehicle services, emergency medical facilities, and other similar support services. Although the towns will rely upon the New Hampshire Civil Defense Agency to fulfill many of these needs, there are no specific agreements to that effect, and there has been no delineation of how the agency will fulfill this role.

Further, NUREG-0654 explicitly requires written agreements referring to the emergency measures to be provided and the mutually acceptable criteria for their implementation as well as the arrangements for exchange of information. To date, none of these letter agreements are in place with respect to any of the personnel or recruitment support mechanisms established under the local plans.

SAPL hopes that the examples included in the above statement of basis will satisfy the concerns of the Staff. SAPL also reiterates the point made in its Petition that this contention applies to all towns within the EPZ.

SAPL LP-19

Staff opposes the admission of this contention on the basis that it does not delineate the specific plans and roads involved. First, SAPL wishes to note its explicit statement that all contentions would apply to all local RERPs unless otherwise stated. Second, SAPL specifically refers to egress routes in the wording of the contention. The egress routes are the roads which should be analyzed for flooding potential in the plans. In general, SAPL believes its concerns would be addressed through a detailed analysis of the EPZ flood plan areas and their proximity to evacuation routes, along with the probability of route flooding and the potential for impact on protective responses in the event of egress route impassibility over an extended period of time.

SAPL LP-20

SAPL stands on the language of SAPL LP-20 as submitted. For the same reasons as those raised with respect to admissions SAPL LP-11, SAPL asserts that the issue of evacuation time estimates with respect to the state and local RERPs as given in the recently completed Appendix E are not res judicata. They rely upon different data sources, have been adopted for use in accordance with the local planning criteria, and contain different results than those apparent in the FSAR estimates. Therefore, SAPL asserts that consideration of these issues is entirely proper in this phase of the proceedings.

SAPL LP-22

Staff objects to the admission of SAPL LP-22 as currently drafted because it is unclear as to whether the contention applies to the monitoring of emergency personnel or of evacuees. The Applicants have no objection to the admission of the contention as worded.

Since the Staff appears confused by the meaning of the second sentence of the statement of basis, SAPL is willing to delete that sentence entirely. SAPL believes that the meaning of the contention and its statement of basis is clearly focused on the monitoring needs of emergency personnel and not evacuees. Therefore, SAPL stands on the remainder of the contention and basis as originally drafted. A redrafting of the contention into several contentions serves no useful purpose and would run contrary to this Board's desire for judicial economy in contention management.

SAPL LP-23

SAPL withdraws this contention as worded but reserves the right to submit additional contentions based on the recent Evacuation Time Study (Appendix E) submitted for consideration by the Applicants. SAPL's position is no longer that time estimates have not been provided, but rather that those which have been provided in Appendix E rely on invalid assumptions and incorrect calculations. SAPL's contentions on this matter are nearing completion and will be submitted shortly. SAPL continues to object to the Staff's position that all issues related to evacuation time estimates have been foreclosed from further adjudication.

Respectfully submitted,
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