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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

CAROLINA POWER & LIGHT COMPANY)
AND NORTH CAROLINA EASTERN)
MUNICIPAL POWER AGENCY)

Docket Nos. 50-400 OL
50-401 OL

(Shearon Harris Nuclear Power Plant,)
Units 1 & 2))

APPLICANTS' RESPONSE TO CONTENTIONS OF RICHARD WILSON
CONCERNING NORTH CAROLINA EMERGENCY RESPONSE PLAN

I. INTRODUCTION

On April 13, 1984, intervenor Richard Wilson submitted "Contentions of Richard Wilson Concerning North Carolina Emergency Response Plan," which contains 16 proposed contentions on emergency planning. All of these proposed contentions are ostensibly based upon the North Carolina Emergency Response Plan in Support of the Shearon Harris Nuclear Power Plant (February 1984) (the "off-site emergency plan" or "ERP"), which was served on all parties to this proceeding on February 28, 1984.

The Licensing Board's September 22, 1982 "Memorandum and Order (Reflecting Decisions Made Following Prehearing Conference)" at 31, deferred consideration of Wilson Contention II pending the availability of relevant emergency planning documents. Intervenors were directed to serve a document upon the Board and parties, within 30 days of receiving emergency planning documents, stating whether previously submitted contentions are submitted for ruling as they stand, withdrawn, or revised based on the basis of new information. Id. at 8. Because Dr. Wilson has not provided a document regarding the status of his previously filed Contention II, that contention

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should be deemed abandoned. For the reasons discussed herein, Dr. Wilson's latest emergency planning contentions do not meet minimal standards for litigable contentions and should be rejected.

II. DISCUSSION

A. Requirements for Contentions

Applicants have previously discussed at length the general legal standards governing the admissibility of proposed contentions in an NRC licensing proceeding. See e.g., "Applicants' Response to Supplement to Petition to Intervene by Wells Eddleman" (June 15, 1982), at 2-19. A summary of the general principles applicable to determining the admissibility of proposed contentions is contained in "Applicants' Response to Lotchin Proposed Contentions on Harris Off-Site Emergency Plan" (April 23, 1984). The discussion contained in these documents is incorporated by reference herein.

B. Wilson's Proposed Contentions

Proposed Wilson Contention 1 is a challenge to the 10-mile plume exposure pathway emergency planning zone (EPZ) for the Harris Plant. It alleges that the ERP "is deficient because it provides no justification for the establishment of a uniform ten mile plume exposure pathway radius" and states that some justification should be provided for not including the town of Cary and its hospital in the EPZ. This contention should be rejected as a challenge to the Commission's regulations and for lack of basis and specificity.

The contention is without basis, first, because its premise that the Harris plume EPZ is a "uniform" 10 miles is untrue. As shown in Figure 5-1 of the HMM Associates, Inc. study entitled "Evacuation Time Estimates for the Plume Exposure Pathway Emergency Planning Zone: Shearon Harris Nuclear Power Plant" (October 1983) ("Evacuation Time Study") and Annex H of the Shearon Harris Nuclear Power Plant

Emergency Plan, Rev. 2 (February 1984) ("on-site emergency plan"), the plume EPZ has an irregular configuration to reflect demographic and jurisdictional factors, and access routes near a 10-mile radius from the Plant. This information became available when the Evacuation Time Study was served on the parties on December 29, 1983. Pursuant to the Board's September 22, 1982 "Memorandum and Order (Reflecting Decisions Made Following Prehearing Conference)" at 8, a challenge to the configuration of the EPZ is untimely if not filed within 30 days of service of that document.

The Commission's regulations, at 10 C.F.R. § 50.47(c)(2), establish that the plume EPZ shall consist of an area of approximately 10 miles in radius around each nuclear power plant, and that the ingestion pathway EPZ shall consist of an area of approximately 50 miles in radius from the plant (protective actions for the 50-mile EPZ are to focus on protection of the food ingestion pathway). The regulations do not require off-site emergency plans to "justify" the size of the plume EPZ, nor does Dr. Wilson cite any other authority for such a requirement. The regulations, at 10 C.F.R. § 50.47(c)(2), provide that the exact size and configuration of the EPZs may vary depending upon a number of conditions such as "demography, topography, land characteristics, access routes, and jurisdictional boundaries." These factors are reflected in the choice of the Harris EPZ. Dr. Wilson does not address how any of these conditions are relevant to the Harris plume EPZ and creates special circumstances justifying expansion beyond approximately a 10-mile radius. He makes the vague allegation that the location of the town of Cary and the possibility that a hospital may be located outside the 10-mile radius "would present a major additional complication if evacuation were necessary." However, he does not specify what this "major additional complication" might be. Thus, proposed Contention 1 is fatally deficient in basis and specificity.

To the extent that Dr. Wilson contends that emergency planning actions beyond protection of the food ingestion pathway are required for areas (such as Cary) that are outside the 10-mile EPZ, the contention constitutes an impermissible challenge to the

Commission's regulations and should be rejected as such. Absent a clear showing of special circumstances, not presented here, that aspect of the proposed contention cannot be litigated in this proceeding. See 10 C.F.R. § 2.758.

Proposed Wilson Contention 2 alleges that Part 1.IV.C.5.f. and Part 1.IV.C.6. of the ERP are deficient because of a number of alleged inadequacies of the Radiation Protection Section (RPS) of the North Carolina Department of Human Resources. Each of the subparts of this contention should be rejected as lacking the basis and specificity requisite for a litigable contention in NRC licensing proceedings.

With respect to subpart (a), Dr. Wilson identifies no basis for his allegation that RPS "has no method for testing the accuracy of their application of the various tools" for projecting consequences of radiation releases. Nor does he identify what the "various tools" are. Under the standards set forth in the Wolf Creek decision, Applicants are entitled to be told with clarity and precision what arguments are being advanced and what relief is being asked in order to properly defend against a contention. Kansas Gas and Electric Company (Wolf Creek Generating Station, Unit No. 1), ALAB-279, 1 NRC 559, 596 (1975). The vagueness of Dr. Wilson's allegations renders subpart (a) in nonconformity with these requirements. The RPS participates in annual emergency preparedness exercises (ERP Part 1.VII.B.) and health physics drills periodically (ERP Part 1.VII.C.) The Department of Crime Control and Public Safety is charged with evaluating and implementing improvements as a result of such exercises and drills (ERP Part 1.VII.D.). Radiation monitoring equipment contained in Attachment 3, Section C is maintained by the RPS to ensure availability and operability during these exercises and drills. To ensure accuracy of the required instruments, the RPS performs inventories, inspections and operational checks on a quarterly basis for the equipment for which it is responsible. Part 1.V.C.7. To the extent that subpart (a) can be read as suggesting that methods for testing the accuracy of radiation monitoring equipment (other than periodic

drills and testing) should be specified in the off-site plan, Dr. Wilson has shown no basis for such requirement. Applicants are aware of no provisions in the regulations or related guidance documents that require inclusion of more of this type of information, and Dr. Wilson has cited no authority whatsoever for any such requirement.

Subpart (b) alleges that RPS does not have sufficient experienced and trained personnel to serve on the SERT team and to monitor activities at the Harris Plant. Dr. Wilson has cited no authority for his bald allegation that only three RPS personnel are sufficiently experienced and trained to fulfill these responsibilities. He has identified no criteria upon which to evaluate the experience and training of such personnel. Nor does he identify any particular deficiencies in experience or training that ought to disqualify RPS personnel from performing the responsibilities outlined in Part 1.IV.C.5.f. and Part 1.IV.C.6.

The training that RPS personnel received to fulfill their responsibilities is identified in Part 1.VII.E. of the ERP. Dr. Wilson does not specify how this training is alleged to be inadequate. In addition, the RPS Staff operates in close cooperation with Applicants' radiological monitoring personnel. Section 5.2.3.15 of the on-site emergency plan specifies that CP&L will assist off-site emergency response organizations, such as RPS, in performing radiological emergency response training related to the Harris Plant. Page 19-9 of the CP&L Corporate Emergency Plan and Implementation Procedures, Rev. 2 (October 1983) specifies that the Manager of CP&L's Radiological & Chemical Support Section will assist State environmental monitoring teams (such as those within RPS) by inviting them to emergency environmental monitoring and dose projection courses conducted by the Section. Accordingly, the bases of this subpart are not set forth with the specificity required for litigable contentions, and subpart (b) should be rejected.

Subpart (c) of proposed Contention 2 asserts that RPS has "no defined protocols for evaluating the significance of environmental monitoring values which are not compatible

with projections based on release data at the plant site" and "no specified methods for revising a projection based on actual data point within the plume." This subpart also lacks basis and specificity. It is so vaguely worded that it is difficult to fashion a substantive response. For example, Dr. Wilson gives no indication as to what he means by the terms "defined protocols," "environmental monitoring values," or "specified methods." He cites no authority in support of the allegation that the "protocols" and "methods" used by RPS are deficient in the manner suggested. To the extent that subpart (c) can be read as suggesting that such "protocols" and "methods" are procedures that should have been included in the ERP, Dr. Wilson has cited no basis for such a requirement. The Appeal Board has explicitly recognized that the Commission did not intend that implementing procedures for emergency plans be litigated in license hearings. Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-732, 17 NRC 1076, 1107 (1983). To the extent that "protocols" might mean choosing between the measured radioactivity levels reported by environmental monitoring teams and the projected calculated dose levels, the choice is obvious. Actual measured values, using calibrated instruments with sensitivities as low as stated in the ERP at Part 1.IV.C.2.c., constitute the compelling evidence of actual radioactive releases. Consequently, no "protocols" are necessary.

Subpart (d) of Wilson Contention 2 generally alleges that no RPS personnel have "sufficient nuclear engineering training to interpret the events at a plant during accident conditions." Dr. Wilson has cited no basis or source for this allegation. He has not identified any responsibilities set forth in Part 1.IV.C.5.f. and Part 1.IV.C.6 for which RPS personnel ought to have nuclear engineering training. As described supra in response to proposed Contention 2(b), RPS personnel receive extensive radiological monitoring training. Dr. Wilson has identified no particular deficiencies in this training or suggested any basis upon which to believe that nuclear engineering training would be more

appropriate in order for RPS personnel to fulfill their responsibilities. He also overlooks the fact that RPS has available to it backup support from the Nuclear Regulatory Commission and other federal agencies. ERP at Part I.III.Q. and Figure 4.

Proposed Wilson Contention 3 and Wilson Contention 4 both relate to the process for decisionmaking by the State Emergency Response Team (SERT) leader. Proposed Contention 3 asserts that the off-site plan is deficient because "it does not specify the decisionmaking process the SERT leader would use in deciding whether or not to implement a protective action recommended by" RPS. It also suggests that information related to a "cost-benefit analysis" used by the SERT leader in such decisionmaking ought to be identified. Proposed Contention 4 holds the off-site plan deficient because it does not specify how the SERT leader would weigh differing recommendations for protective action from RPS and "the Utility" (presumably intending to refer to Applicants).

Both of these contentions lack basis because there is no requirement that this type of information be included in the ERP. Dr. Wilson has pointed to no regulation or other authority mandating inclusion of information regarding the decisionmaking process utilized by the SERT leader. There is no intuitive reason why this type of information ought to be required or is even desirable for inclusion in the ERP.

With respect to proposed Contention 3, Part I.IV.E.10. of the ERP addresses the considerations that are involved in choosing among protective actions such as evacuation and sheltering. It explicitly notes that recommendations for protective action are premised on recognition that the evacuation option "entails certain risks of injury, cost, and inconvenience," and that the sheltering option will accordingly be given serious consideration.

There is no reason for the ERP to address a hypothetical situation in which recommendations from RPS and Applicants as to protective action may differ, as suggested in Wilson Contention 4. Procedures for coordination of dose assessment and

monitoring results between CP&L and SERT are described in Sections 2.4.6 and 2.4.10 of the Harris on-site emergency plan. CP&L will also provide a representative to the SERT who will provide technical guidance on protective actions. Section 2.4.9. These provisions should minimize any potential for differing recommendations. The response of the SERT leader will necessarily depend upon the particular facts of a given situation. There is no requirement for the ERP to address such situations in a generalized way. Dr. Wilson has advanced no reasons to support the implication that such a discussion would even be useful, much less that it is required.

Accordingly, both proposed Contentions 3 and 4 must be rejected.

Proposed Wilson Contention 5 contains five subparts, all alleging deficiencies in the public education and information provisions of the State and Wake County parts of the ERP.

Subpart (a) of Wilson Contention 5 stating that a brochure is not included in the ERP is similar to proposed CHANGE Contention 2. Applicants' response to that CHANGE contention is fully applicable here, and it is incorporated by reference herein. "Applicants' Answer to CHANGE Proposed Contentions on SHNPP Off-Site Emergency Response Plan" (April 23, 1984), at 10-11.

Subparts (b), (c) and (e) lack adequate basis to be litigable contentions because Applicants have committed to provide a public information brochure for annual dissemination, and there is no requirement that any other particular methods for public education and information be utilized. Planning Standard G of NUREG-0654, which implements the requirement of 10 C.F.R. § 50.47(b)(7) that public information be made available on a periodic basis, establishes only that such information be disseminated at least annually and specifically states that the means are discretionary. NUREG-0654 at 49. The ERP has been developed in accordance with the guidance in NUREG-0654. ERP at p. vii. Part I.IV.D. of the ERP acknowledges that state and local governments and

Carolina Power & Light Company "share a joint responsibility for disseminating this type of information." A public information brochure for annual dissemination to residents is currently being developed. In view of these representations and consistent with the discretionary language of Planning Standard G, Part 1.IV.D.2. of the ERP is in no way deficient simply because it does not commit to utilizing any of the specific methods of disseminating information identified therein. Where a commitment has been made that the requirements in NUREG-0654 will be met, overseeing the implementation of details (such as specifying methods and identifying "plans, drafts, outlines or schedules") can properly be left to the Staff and need not be litigated in an adjudicatory hearing. See "Memorandum and Order (Ruling on Wells Eddleman's Proposed Contentions Concerning Detailed Control Room Design Review (DCRDR) . . .)" at 6, 11-13 (Oct. 6, 1983).

Dr. Wilson provides no basis whatsoever for his broad-brush allegation in subpart (d) that there is no evidence that any of the methods identified for disseminating public information "would contribute to any greater degree of public readiness for an emergency than nothing at all." Part 1.IV.D.2. identifies a variety of such methods, including provision of an annual brochure and other written material, establishment of a speakers bureau and preparation of news material for the media. Part 5.IV.D.6. refers to information such as travel routes, shelter facilities and effects of radioactivity. While some members of the public may choose to ignore this profusion of information, Applicants believe it axiomatic that such information will contribute to a greater public readiness than nothing at all. Dr. Wilson has identified no specific shortcomings in the methods identified. As discussed in Applicants' response to proposed Eddleman Contention 229, which is being filed concurrently with this Response, there is no regulatory basis upon which to require that the effectiveness of methods for disseminating public information be verified. Subpart (d) does not meet minimal standards for basis and specificity to constitute a litigable contention.

Proposed Wilson Contention 6 alleges that Part 1.IV.E.4.a. of the ERP (p.47) is deficient because "there are no commercial busses in the plume exposure pathway and no arrangements to use any other commercial busses." This contention lacks any basis and should be rejected.

The ERP identifies many more transportation resources, other than commercial buses, that are in close proximity to the EPZ and which would be available on short notice for an evacuation. Organizations that are committed to provide transportation resources include the North Carolina National Guard (ERP at Part 1.III.C.3.b.), North Carolina Department of Natural Resources and Community Development (Part 1.III.G.1.b. and III.G.2.g.), North Carolina Wildlife Resources Commission (Part 1.III.H.6.), North Carolina Department of Transportation (Part 1.III.J.1.d.), and the superintendents of education in the four affected counties (Part 2.III.L.7., Part 3.III.L.6., Part 4.III.M.7., and Part 5.III.T.5.). The State's Division of Emergency Management informs Applicants that the word "commercial" will be deleted from Part 1.IV.E.4.a. of the ERP to reflect the fact that the ERP identifies a wide variety of transportation resources, not just "commercial" buses.

Proposed Wilson Contention 7 contains six subparts, all of which allege deficiencies in Part 1.IV.E.4.b. of the ERP. Part 1.IV.E.4.b. states:

Non-ambulatory patients will be transported by county rescue squads or ambulance services. Mutual aid agreements with surrounding counties will be invoked when necessary.

Proposed Contention 7 should be rejected in its entirety for lack of the requisite basis and specificity.

With respect to subpart (a), the contention lacks basis and specificity. Dr. Wilson has specified no requirement in the regulations or related criteria documents that an off-site emergency plan list individual "homebound non-ambulatory people" or provide a mechanism for identifying them. As discussed in response to proposed Contention 6 supra, the ERP identifies ample resources to transport these persons.

Citing "current N. C. Statutes," subpart (b) asserts that "most ambulances and rescue squad vehicles are not equipped properly to transport hospitalized patients." Dr. Wilson's generalized reference to "current N. C. Statutes" does not meet minimal standards for specificity required of a litigable contention. Applicants and the Board are left to guess as to what Dr. Wilson's cryptic reference is intended to be. Applicants are aware of no sections of the North Carolina General Statutes that make a factual determination on the adequacy of ambulance and rescue vehicles. Article 7 of Chapter 131E of the North Carolina General Statutes provides for the North Carolina Medical Care Commission to adopt rules specifying the equipment and other requirements for ambulances used in transporting patients. All ambulance operators are required to secure a permit from the Department of Human Resources, which is empowered to inspect for compliance with the Medical Care Commission requirements. G.S. §§ 131E-156, 131E-157. A "patient" is defined as "an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be anticipated while being transported to or from a medical facility." G.S. § 131E-155. The existence of this statutory provision appears to contradict the factual allegation in subpart (b) of proposed Wilson Contention 7.

Both subparts (c) and (d), related to the number of emergency vehicles, are wholly devoid of basis. Dr. Wilson has again failed to cite any basis for a requirement that the off-site plan provide an estimate of the number of emergency vehicles required; Applicants are not aware of any such requirement. Contrary to subpart (d), neither Part 1.IV.E.4.b. of the ERP nor any other document states or implies that there need be "130 emergency vehicles in the County." Assuming that "the County" is intended to mean

Wake County, subpart (d) appears to be based on a misunderstanding of section 8.3 of the Evacuation Time Study.¹ That section states in pertinent part:

Emergency Medical Service (EMS) and rescue vehicles will be used to evacuate hospitals, nursing homes, and family care centers. Approximately 130 vehicles will be needed to evacuate ambulatory and non-ambulatory residents. EMS and rescue squad vehicles will be supported by backup use of school buses and vans.

This statement refers to the vehicular requirement for all four affected counties, not just Wake County. It applies to ambulatory as well as non-ambulatory persons and clearly contemplates that non-emergency vehicles will be used if necessary to meet the vehicular requirements. In addition, Part 1.IV.E.4.b. of the ERP references mutual assistance agreements with surrounding counties which could be invoked to obtain more emergency vehicle support.

Subpart (e) of proposed Wilson Contention 7 also lacks basis. The "mutual assistance agreements with surrounding counties" referenced in Part 1.IV.E.4.b. of the ERP will provide additional emergency support from those counties. Dr. Wilson has advanced no basis for his apparent suggestion that special agreements are needed to deal with "nuclear accidents" differently from any other type of emergency.

Subpart (f) is similar to proposed CCNC Contention 6. It should be rejected for the same reasons that are discussed in Applicants' response to CCNC Contention 6, which is incorporated by reference herein. "Applicants' Response to CCNC Contentions Arising from Review of Emergency Response Plan" (April 23, 1984), at 9-11. Dr. Wilson's suggestion in subpart (f) that only 50 percent of volunteer emergency workers will respond to an alert is unsupported and speculative, and should be rejected as without basis.

¹Proposed Contention 7(a), is untimely filed since it was not submitted within 30 days of service of the Evacuation Time Study. See response to proposed Wilson Contentions 1 and 12.

Proposed Wilson Contention 8 consists of a series of allegations of deficiency in Part 1.IV.E.4.d. of the ERP, which deals with transportation of public school students during an evacuation. None of these allegations meet the requirements for a litigable contention.

Subparts (a), (b) and (c) of proposed Contention 8 challenge the ability and willingness of school bus drivers to perform their duties during an emergency evacuation. With respect to subpart (a), Dr. Wilson offers no reason to support the proposition that specific parental authorization should be required for student bus drivers to perform their job during an evacuation or the speculative assertion that student drivers "should not be trusted to perform in emergency situations." Neither NRC regulations nor related guidance documents (e.g., NUREG-0654) require any parental authorization. Under North Carolina law, persons at least 16 years old are permitted to drive school buses after receiving appropriate training and certification. See G. S. § 20-218. Dr. Wilson does not argue and puts forward no basis to suggest that driving a bus during an evacuation requires qualitatively different skills or training than driving during a non-evacuation situation.

Dr. Wilson's broad distrust of the willingness of school bus drivers to perform their duties, expressed in both subparts (a) and (b), is unsupported. This portion of the contention is similar to proposed CHANGE Contention 26. Applicants' response to CHANGE Contention 26 is incorporated by reference. "Applicants' Answer to CHANGE Proposed Contentions on SHNPP Off-Site Emergency Response Plan" (April 23, 1984), at 44-47.

With respect to subpart (c), Dr. Wilson has advanced no reason why bus drivers will not do their job during an evacuation without a formalized agreement. He does not, for example, cite any instances where the absence of an agreement has resulted in dereliction of drivers' duties to perform. Accordingly, subpart (c) should be rejected as without basis.

Subparts (d), (e) and (f) all assert that Part 1.IV.E.4.d. of the ERP is deficient because of alleged problems in the mechanics of the evacuation of public schools. These contentions ignore information contained in the Evacuation Time Study and ERP regarding evacuation of the school population. Section 6.2.5 of the Evacuation Time Study indicates that schools within the plume EPZ will be evacuated using buses from outlying schools to supplement the buses located within the EPZ. As discussed supra in response to Wilson Contention 6, numerous other organizations will also provide transportation resources. Thus, the concerns expressed in subparts (d) and (e) are without factual basis. Dr. Wilson provides no basis for the suggestion that any special consideration should be given in the ERP to the refueling of school buses. Buses need not be fully refueled to leave the 10-mile EPZ; few, if any buses, would have so little fuel that they could not travel that distance. With routine procedures in place to handle refueling, surely so minor a problem need not be litigated in this proceeding.

Subpart (g) of proposed Contention 8 suggests that parents must sign "release slips" in order for their children to be transported from school during an emergency evacuation. State and local emergency management officials have sufficient legal authority under the North Carolina Emergency Management Act of 1977, G. S. 136A-1 et seq., and the North Carolina Department of Crime Control and Public Safety Act, G. S. 143B-473 et seq., to transcend any sort of administrative rule on "release slips" imposed by the school systems. Accordingly, the contention should be rejected for lack of basis.

Subpart (h) is almost identical to proposed CHANGE Contention 29. Applicants' response to CHANGE Contention 29 is fully applicable here and is incorporated by reference. "Applicants' Answer to CHANGE ...," supra at 50-51.

Subpart (i) should be rejected as wholly unspecific and lacking basis. It does not identify who the "officials directly involved in school bus management" are or how the alleged failure to consult them renders the transportation provisions of the ERP

deficient. The ERP identifies the school superintendents for each of the four affected counties as having responsibility for providing buses during an emergency. ERP at Part 2.III.L., Part 3.III.L., Part 4.III.M., Part 5.III.T. To the extent that further consultations are desirable, that matter can be addressed among the superintendents and their subordinates. Specific provisions for consultation need not be included in the ERP.

Subpart (j) makes a vague reference to "present planning" with respect to the role of teachers during an evacuation without identifying any source for the allegations therein. Applicants are left to speculate as to what the basis for the contention is. Nor does Dr. Wilson give any inkling why he believes "[t]his is an unreasonable and unrealistic demand on teachers." The contention is premised upon the faulty assumption that all teachers will have families in the plume EPZ. Certainly, there are a large number of teachers who will experience no role conflict and will be available to supervise evacuated school children (e.g., those teachers who are single, who live outside the EPZ or whose children attend the same school). Subpart (j) is devoid of basis and specificity, and thus must be rejected.

Subpart (k) suggests that specific security plans are necessary for students "in an age when kidnapping is increasingly prevalent." The ERP makes ample provisions for law enforcement by the State Highway Patrol, National Guard, county sheriffs' departments and local police during an evacuation. ERP at Part 1.III.C. and Parts 2-5, III. Dr. Wilson does not argue that these provisions are inadequate or specify what "special" security needs students may have that are not addressed. Except for a casual reference to kidnapping, Dr. Wilson gives no indication of the precise nature of his concern. The parties can only speculate as to the scenario he envisions and the remedial measures he would propose to resolve whatever the concern is. Subpart (k) should be rejected for lack of the requisite basis and specificity for a litigable contention.

Proposed Wilson Contention 9 relates to the evacuation of persons without access to transportation. The allegation that Part I.IV.E.4.e. of the ERP is deficient merely because it does not contain an estimate of the number of persons without transportation is without basis. As Dr. Wilson acknowledges, that information is provided in Section 3.1.2 of the Evacuation Time Study which was a basis for the ERP. The estimate contained therein was derived from 1980 U. S. Census figures. Dr. Wilson has cited no authority or advanced any other reason to support the assertion that the estimate of 240 non-auto owning households in the Wake County section of the plume EPZ "seems" too low. Thus, that part of the contention should be rejected because it lacks basis and specificity.

Each of the county sections of the ERP specifies that news releases will urge the sharing of rides with persons without transportation, that pickup points will be established for those persons and that those evacuees should start walking to the nearest such point. ERP at Part 2-5, IV.E.8. As provided in Appendix D to the ERP, notification messages in the event of an evacuation will contain the following information:

Assembly areas for people requiring transportation have been established in each community. Law enforcement officers and emergency workers are on duty in each community to guide people to assembly areas. [ERP at D-3]

The commitment to utilize law enforcement and emergency personnel for assistance and to establish assembly areas in each community adequately addresses the concerns raised by Dr. Wilson regarding how persons will get to pick-up points and the criteria for their establishment. The allegation that the ERP is deficient in that regard is baseless. Contention 9 should be rejected in its entirety.

Proposed Wilson Contention 10 generally alleges that confusion and delays in evacuation could result because the ERP does not contain a "quantitative definition of 'contaminated vehicle'." This contention lacks basis because it overlooks Part I.IV.G.6.b.

of the ERP, which provides that decontamination measures will commence whenever radiation readings of two times the normal background reading are obtained. Thus, the ERP clearly specifies a quantified basis for decontamination of material including vehicles.

Proposed Wilson Contention 11 is a challenge to Part I.IV.E.5.h., which states: "Local police and sheriffs' departments, assisted by the State Highway Patrol, will control access to evacuated areas." Dr. Wilson faults the ERP because it contains no criteria for entry into the EPZ and because "no maps are available to demonstrate that impossible traffic jams will not be created by hundreds if not thousands of people trying to re-enter the 10-mile EPZ." For several reasons, this contention should be rejected as lacking basis. There is no requirement, regulatory or otherwise, that the ERP identify specific criteria for re-entry into the EPZ. Despite experience with numerous evacuations in North Carolina and throughout the United States and the extensive civil defense literature attendant thereto, Dr. Wilson has suggested no basis whatsoever for believing that "hundreds if not thousands of vehicles" will try to enter the plume EPZ and/or that "impossible traffic jams" would result. He also does not address how provision of maps would demonstrate that such events would not occur.² In short, Dr. Wilson has shown no basis for asserting that any special criteria need be identified to handle the re-entry into the plume EPZ or that law enforcement personnel would be unable to control access as specified in Part I.IV.E.5.h. in the same manner they would for any other evacuation situation.

²Maps showing the local emergency planning zones and evacuation routes were provided as part of both Revision 2 of the on-site emergency plan and the "Evacuation Time Study". Both of these documents have been served on the parties to this proceeding. See discussion in "Applicants' Response to CCNC Contentions Arising From Review of Emergency Response Plan" (April 23, 1984), at 2.

Proposed Wilson Contention 12 contains two subparts, both of which allege deficiencies in the ERP³ related to the Evacuation Time Study. Subpart (a) asserts that the State has demonstrated "no independent assessment nor even critical review" of the Evacuation Time Study and that they have "presented it as if it were commissioned by them." Subpart (b) alleges a number of specific, substantive deficiencies in the Evacuation Time Study itself.

This proposed contention should be rejected in its entirety for a number of reasons. First of all, both parts of the contention, premised as they are on the Evacuation Time Study, are untimely filed. The Evacuation Time Study was served on all parties to this proceeding on December 29, 1983. In the Licensing Board's September 22, 1982 "Memorandum and Order (Reflecting Decisions Made Following Prehearing Conference)," at 8, intervenors were directed to submit any new contentions based on new information in relevant emergency planning documents within thirty days after service of those documents. Thus, proposed Contention 12 should have been filed within thirty days of service of the Evacuation Time Study because it is based upon information that became available in that document. The contention must be rejected because Dr. Wilson has failed to comply with the Board's Order.

Even apart from the contention's untimeliness, the subparts are nonlitigable for other reasons. Subpart (a) lacks any basis because the State and local jurisdictions were involved not only in the review and approval of the Evacuation Time Study, but in its preparation. See Evacuation Time Study at 11-1. The North Carolina Division of Emergency Management and emergency management agencies from each of the four affected counties have provided statements that they have reviewed and concurred in the Evacuation Time Study. These statements are attached to the Evacuation Time Study itself. Id. at 11-2 to 11-6. Dr. Wilson cites no sections of the ERP or other

³The proposed contention references "Section Eg of State Procedures (p. 50)." There is no "section Eg" on page 50 or elsewhere in the ERP. Applicants presume that Dr. Wilson intended to refer to Part I.IV.E.9. on page 50 of the State Plan portion of the ERP.

support for the allegation that the State had presented the Evacuation Time Study as if they had commissioned it.

The various allegations comprising Contention 12(b) lack adequate basis and specificity. Dr. Wilson cites no sources of information for any of the allegations in Contention 12(b). Thus, in defending the contention, Applicants are left to guess as to what authority, if any, he relied upon.

With respect to proposed Contention 12(b)(1) alleging that the 15-minute notification assumption is unrealistic, the allegation lacks basis and specificity, and constitutes a challenge to the Commission's regulations. This portion of proposed Wilson Contention 12 is similar to proposed CCNC Contention 7. Applicants' response to CCNC Contention 7 is incorporated by reference herein. "Applicants' Response to CCNC Contentions Arising From Review of Emergency Response Plan" (April 23, 1984), at 11-12. The pages from the Wake County section of the ERP relied upon by Dr. Wilson refer only to notification times for the backup notification system. Because he has completely ignored the primary notification system—fixed sirens and Emergency Broadcast System messages—which are designed to provide a 15-minute notification capability, his allegations lack basis.

With respect to proposed Contention 12(b)(2), Dr. Wilson presents no evidence to support his proposition that many families would take two separate cars instead of one. Nor does he specify how that allegation, even if true, would materially change evacuation time estimates in the Evacuation Time Study. Similarly, Dr. Wilson provides no evidence to support the allegations in Contention 12(b)(3). As Section 3.1.2 of the Evacuation Time Study indicates, the figure of 240 households in Wake County without access to a vehicle was derived from 1980 census data. Dr. Wilson has presented no basis upon which to challenge the accuracy of those numbers.

The allegation in Contention 12(b)(4) that "School problems . . . are not considered" lacks any basis. In fact, the Evacuation Time Study specifically considered the problems of evacuating schools in determining the evacuation time estimates. See e.g., Evacuation Time Study at Section 1.3, Section 3.3, Table 3-6, Figure 3-4, Table 3-7, and Section 4. Dr. Wilson's generalized and unsupported allegation points to no specific deficiencies in that consideration.

Proposed Contention 12(b)(5) is a challenge to the methods used to validate the results of the Evacuation Time Study. However, Dr. Wilson cites no authority to support his contention that the validation methods are inadequate or to support the implication that other methods would produce significantly different evacuation time estimates.

Proposed Contention 12(b)(6) lacks any basis because the ERP contains provisions designed to assure that impoundment and decontamination of vehicles will not hinder evacuations. Under Part 1.IV.E.5. of the ERP, "the main goal of evacuation will be to move the population out of the threatened area." Decontamination and impoundment of vehicles will be secondary concerns. Part 1.IV.E.5.d. and e. describe special procedures to insure that impoundment of vehicles does not interfere with an evacuation. Dr. Wilson has identified no specific deficiencies in those procedures.

Proposed Wilson Contention 12(b)(7) regarding adverse weather is similar to proposed CCNC Contention 5. Dr. Wilson's contention should be rejected for the same reasons that CCNC Contention 5 should be. See "Applicants' Response to CCNC Contentions Arising From Review of Emergency Response Plan" (April 23, 1984), at 8-9.

Proposed Wilson Contention 12(b)(8) generally alleges that inadequate numbers of volunteer rescue squad and fire department workers will be available during an emergency. This allegation lacks adequate basis because it suggests no reason why adequate numbers of workers would not be available. To the extent that this subpart of the contention can be read as suggesting that those workers cannot be depended upon to

respond to a radiological emergency in sufficient numbers, Applicants' response to proposed CCNC Contention 6 is incorporated by reference herein. Id. at 9-10.

Proposed Wilson Contentions 12(b)(9) and 12(b)(10) should be rejected because there is no requirement that the Evacuation Time Study provide the type of information suggested. With respect to Contention 12(b)(9), Applicants are not aware of any regulation or other authority requiring a discussion of alternative methods to calculate evacuation times. Dr. Wilson cites no such authority. Appendix 4 of NUREG-0654 requires a description of the methodology for analyzing evacuation times (which is provided in sections 5 and 6 of the Evacuation Time Study), but not consideration of alternative methods. In addition, proposed Contention 12(b)(10) is wholly unspecific in that it does not address what constitutes a "justification" for the vehicle departure rates or how the lack of such "justification" constitutes a deficiency in the Study.

Proposed Wilson Contention 13 holds the ERP deficient because it lacks provisions to assure that fuel will be available for vehicles within the 10-mile plume EPZ that might not have enough to leave the EPZ. This contention lacks adequate basis for a litigable contention because it gives no indication why any special consideration should be made for this contingency. Given the short distance of the EPZ and the gasoline mileage ratings of most vehicles, only one or two gallons of gasoline would be required to leave the plume EPZ. Service stations exist throughout the EPZ for the few imprudent residents who may have less than one or two gallons of fuel in their tanks. In addition, persons whose vehicles run out of fuel could utilize the transportation methods designed for persons who do not have access to vehicles. See ERP at Parts 2-5, Section IV.E.8, and "Applicants' Answer to CHANGE Proposed Contentions on SHNPP Off-Site Emergency Response Plan" (April 23, 1984) at 44.

According to proposed Wilson Contention 14, the state of North Carolina "does not have enough snow plows in this area to effectively clear the roads of snow or ice in a

reasonable amount of time," and Part I.IV.E.A. of the ERP is thereby deficient. That section of the ERP provides that the state Department of Transportation and municipal public works departments will be responsible for clearing evacuation routes of impediments such as snow and ice. Proposed Contention 14 should be rejected for lack of basis and specificity and as a challenge to the Commission's regulations.

Dr. Wilson does not cite any authority for the proposition that the State has insufficient snow and removal equipment. He does not suggest how many snow plows would be "enough." He questions the timeliness with which snow and ice removal could be accomplished, without specifying what is a "reasonable amount of time." Proposed Contention 14 effectively constitutes an impermissible challenge to the Commission's regulations, by its implicit assumption that evacuation must be accomplished within some particular (albeit unspecified) time frame. To the contrary, as the Appeal Board has recognized, "the Commission's emergency planning regulations do not specify the time within which the plume EPZ must be evacuated in the event of a nuclear emergency. 10 C.F.R. Part 50, Appendix 3, § IV, requires only that applicants provide 'an analysis of the time required to evacuate ...' ***." The Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit 2), ALAB-730, 17 N.R.C. 1057, 1069 n. 13 (1983). Thus, it matters not whether there are many snow plows or few. Dr. Wilson might conceivably have proposed a contention alleging, e.g., that the plans did not provide for the most efficient use of available snow and ice equipment, or that the evacuation time estimate assumed the availability of more equipment than would actually be available in an emergency. But contention that some number of snow plows must be available within some distance of the plant to insure evacuation within a "reasonable" time plainly cannot be sustained.

Furthermore, as explained in response to proposed CCNC Contention 5, the Evacuation Time Study, which was used as a basis for the ERP, specifically considered an adverse weather scenario in determining evacuation times. Dr. Wilson has not argued or

provided any basis for suggesting that this consideration of adverse weather is inadequate. The ERP provides for alternative protective actions (e.g., sheltering) that could be used in the event that evacuation is not immediately possible. There is no regulatory requirement that licensees assure immediate evacuation under all weather conditions. See discussion in response to proposed CCNC Contention 5 which is incorporated by reference herein. "Applicants' Response to CCNC Contentions Arising From Review of Emergency Response Plan" (April 23, 1984), at 8-9.

Proposed Wilson Contention 15 alleges that Part 1.IV.B.11.a. and b. of the ERP "are deficient because no specific plans and assignments exist [sic] for notification." This contention has no basis. Contrary to the assertion that no specific plans and assignments exist, Figure 5 of Part 5 of the ERP contains specific assignments for the notification responsibilities outlined in Part 5.IV.B.11.a. Specific fire, police, and rescue departments are assigned responsibility for notification in each of the local planning zones. The responsibilities of each of these organizations is further addressed in Part 5.III. of the ERP. As specified in Part 5.IV.B.11.b, these organizations will be supported by other organizations outside the EPZ including the Wake County Sheriff's Department and other county fire departments. The responsibilities of those organizations are also established in Part 5.III. of the ERP. Thus, Dr. Wilson's flat statement that "no specific plans and assignments" exist is clearly contradicted by the ERP itself and the contention therefore lacks basis.

Proposed Wilson Contention 16 alleges that the Wake County Backup Alert and Notification Timetable (Figure 4 in Part 5 of the ERP) is deficient "because the notification time estimates do not anticipate the confused and disorganized traffic that would hamper their progress along their routes." This contention lacks basis for several reasons. The ERP assigns responsibilities for traffic control to several State agencies. The State Highway Patrol has lead responsibility and will have support from the National

Guard and Department of Transportation. ERP at Part 1.III.C. and J. Dr. Wilson provided no basis to suggest that these authorities will be unable to fulfill their responsibilities and prevent interference with notification vehicles.

The contention evidences a fundamental misapprehension of the purpose of the emergency notification system, and should be rejected as without basis. Contrary to Dr. Wilson's implication, the purpose of initial emergency notification is not to precipitate an evacuation by the populace. Public information will make clear that initial notification is intended only to alert persons to listen for additional directions through the EBS system. See ERP at Part 1.IV.D. Thus, there is no reason to believe that any unusual traffic problems would result merely from such notification. There is no basis for believing that large numbers of persons will ignore this advice and begin evacuating upon receiving an initial public notification. Under these circumstances, there is no basis for Dr. Wilson's suggestion that any inordinate traffic problems will hamper backup notification vehicles.

Further, the proposed contention suffers from a fundamental flaw in logic. The time estimates contained in Figure 4 are premised on use of the backup notification system to complete notification within the entire 10-mile EPZ. ERP at Part 5.IV.B.10. Primary notification throughout the plume EPZ is through a system utilizing fixed sirens and Emergency Broadcast System (EBS) messages. See ERP at Sections IV.B. of Parts 1-5 and Annexes C-E. The backup notification system would be utilized throughout the entire 10-mile EPZ only if the primary system has not functioned. In that case, residents would have received no previous notification, and there would be no reason to anticipate that "confused and disorganized traffic" would exist during the notification process. Similarly, if the backup notification system were utilized to reach limited areas that had not been notified by the primary system or to concentrate warnings within smaller operational areas as is anticipated by Part 5.IV.B.10., there is no reason to believe that inordinate traffic problems would exist in the absence of prior notification in those areas.

Applicants therefore oppose admission of proposed Wilson Contention 16 as wholly lacking in basis.

III. CONCLUSION

For all the reasons discussed herein, all of Dr. Wilson's proposed contentions on the off-site emergency plan must be rejected.

Respectfully submitted,



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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

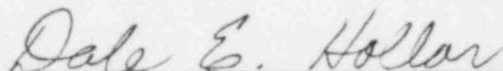
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
CAROLINA POWER & LIGHT COMPANY)	
AND NORTH CAROLINA EASTERN)	Docket Nos. 50-400 OL
MUNICIPAL POWER AGENCY)	50-401 OL
)	
(Shearon Harris Nuclear Power Plant,)	
Units 1 & 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response to Contentions of Richard Wilson Concerning North Carolina Emergency Response Plan" were served this 27th day of April, 1984 by deposit in the United States mail, first class, postage prepaid, to all parties on the attached Service List except Richard Wilson and Atomic Safety & Licensing Board members, James L. Kelley and James H. Carpenter, who will be served by hand delivery on the 28th day of April, 1984.

This the 27th day of April, 1984.



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