

488
February 5, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

*85 FEB -8 A11:01

OFFICE OF SECRETARY
FOR LICENSING & SAFETY

In the Matter of)
)
THE CLEVELAND ELECTRIC)
ILLUMINATING COMPANY)
)
(Perry Nuclear Power Plant,)
Units 1 and 2))

Docket Nos. 50-440 OL
50-441 OL

APPLICANTS' MOTION FOR
SUMMARY DISPOSITION OF CONTENTION P

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and The Toledo Edison Company ("Applicants") hereby move the Atomic Safety and Licensing Board ("Board"), pursuant to 10 C.F.R. § 2.749, for summary disposition in Applicants' favor of Contention P. As discussed herein, there is no genuine issue as to any fact material to Contention P, and Applicants are entitled to a decision in their favor on Contention P as a matter of law.

This motion is supported by:

1. "Applicants' Statement of Material Facts As To Which There Is No Genuine Issue To Be Heard On Contention P";
2. "Affidavit of Roger E. Linnemann on Contention P" ("Linnemann Affidavit"); and
3. Section II.A of "Applicants' Motion For Summary Disposition of Issue 14" (January 14, 1985) (articulating the legal standards applicable to a motion for summary disposition).

DS03

I. PROCEDURAL BACKGROUND

Prior to the availability of offsite emergency plans for the Perry EPZ, the Board admitted a very broad emergency planning contention, Issue 1:

Applicants' emergency evacuation plans do not demonstrate that they provide reasonable assurance that adequate protective measures can and will be taken in the event of an emergency.

See LBP-81-24, 14 N.R.C. 175, 189 (1981), as modified by LBP-81-35, 14 N.R.C. 682, 686 (1981). The Board subsequently noted that the words "State and local" should be substituted for the word "Applicants'" in the wording of the contention. See LBP-84-28, 20 N.R.C. 129, 130 n.1 (1984).

After well-developed offsite plans had been publicly available for some time, Applicants (with the support of the Staff) moved for a Board order requiring the particularization of the broad contention. The Board granted Applicants' motion, directing Intervenor to "specify in a written filing the specific inadequacies alleged to exist in the draft local and State emergency plans * * *." See LBP-84-28, 20 N.R.C. at 132.

Contention P was initially advanced in "Sunflower Alliance's Particularized Objections To Proposed Emergency Plans In Support of Issue No. I" (August 20, 1984). Over the opposition of Applicants and the Staff, the Board admitted a form of that contention. As admitted by the Board,^{1/}

^{1/} The Board expressly rejected all allegations of the proposed contention which are not included in the

(Continued next page)

Contention P alleges:

Emergency plans are deficient with respect to hospital designations and medical services as well as procedures required to assist contaminated individuals.

"Memorandum and Order (Admissibility of Contentions on Emergency Plans and Motion To Dismiss)" (January 10, 1985), at 6.

As the Board has noted, discovery on emergency planning issues in this proceeding has been completed. See January 10, 1985 Memorandum and Order, at 5. Further, the schedule proposed by Applicants establishes February 5, 1985 as the last day for filing summary disposition motions. See January 18, 1985 Letter, Counsel for Applicants to Licensing Board, Conference Call between the Board and the parties, February 1, 1985, Tr. 2049. Accordingly, the instant motion is timely, and Contention P is ripe for summary disposition.

(Continued)

contention as framed by the Board. See January 10, 1985 Memorandum and Order, at 5.

II. GOVERNING LEGAL STANDARDS

A. Summary Disposition

Section II.A of "Applicants' Motion For Summary Disposition of Issue 14" (January 14, 1985) sets forth the legal standards applicable to a motion for summary disposition. The discussion there is fully applicable to this Motion and is incorporated by reference herein.

B. Substantive Law

The Commission's emergency planning regulations, at 10 C.F.R. § 50.47(b)(12), require that:

[a]rrangements are made for medical services for contaminated injured individuals.

See also 10 C.F.R. Part 50, Appendix E, § IV.E. This planning standard is addressed by NUREG-0654/FEMA-REP-1, "Criteria For Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness In Support of Nuclear Power Plants" (Rev. 1, November 1980). NUREG-0654 Criterion L.1 provides:

Each organization shall arrange for local and backup hospital and medical services having the capability for evaluation of radiation exposure and uptake, including assurance that persons providing these services are adequately prepared to handle contaminated individuals.

Criterion L.3 further provides:

Each State shall develop lists indicating the location of public, private and military hospitals and other emergency medical services facilities within the State or contiguous States considered capable of providing medical support for any contaminated injured individual. The listing shall include the name, location, type of facility and capacity and any special radiological capabilities. These emergency medical services should be able to radiologically monitor contamination personnel, and have facilities and trained personnel able to care for contaminated injured persons.

The Commission has further defined the scope of emergency planning for medical services for members of the general public under 10 C.F.R. § 50.47(b)(12) in Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-83-10, 17 N.R.C. 528 (1983). The Commission there held:

The scope of "medical services" to be provided must focus on the special hazards from radiation which, we think, fall into two categories. The first category addresses individuals who may become traumatically injured (non-radiation injury for which emergency medical care is needed) and are also externally contaminated with radiation. To meet the emergency planning regulation, it has been the general practice for licensees or offsite authorities to make special arrangements for emergency treatment of contaminated injured onsite personnel and emergency workers. The issue here is whether there should be additional specific arrangements for the general public. While some immediate action may be required, the number of individuals both onsite and offsite who may become contaminated and injured is expected to be very few. The Commission believes it is

prudent to identify local or regional medical service facilities considered capable of providing support for contaminated injured individuals. Additionally, emergency service organizations within the EPZ should be provided with information concerning the capability of medical facilities to handle individuals who are contaminated and injured. This information, in conjunction with the core services to deal with onsite personnel and emergency workers, should be sufficient to accommodate members of the general public and could be expanded as necessary on an ad hoc basis.

The second category addresses individuals who have been subjected to dangerous levels of radiation and who need medical treatment for that reason. Here, the special hazard is posed by the radiation exposure to the patient. The nature of radiation injury is that, while medical treatment may be eventually required in cases of extreme exposure, the patients are unlikely to need emergency medical care. The non-immediacy of the treatment required for radiation-exposed individuals provides onsite and offsite authorities with an additional period of time to arrange for the required medical service. Thus, any treatment required could be arranged for on an ad hoc basis. Accordingly, emergency plans should include a listing of those local and regional medical facilities which have the capabilities to provide appropriate diagnosis and treatment for radiation exposure. No contractual arrangements or special training programs are necessary and no additional hospitals or other facilities need be constructed. No extraordinary measures are required of state and local governments. Diagnosis and treatment could take place at most existing medical facilities.

III. ARGUMENT

Applying the Commission's summary disposition standards to the facts of this case, it is clear that the instant motion for summary disposition of Contention P should be granted.

Contention P asserts that the emergency plans are deficient with respect to the medical services to be provided by hospitals, including assistance to contaminated individuals.^{2/} Sunflower's arguments in support of its contention evidences a fundamental misunderstanding of the requirements of NRC regulation, the intent of NRC/FEMA guidance, and the nature of radiation injuries and treatment.

NRC regulations require that arrangements be made for medical services for contaminated injured individuals. 10 C.F.R. § 50.47(b)(12). NUREG-0654 recommends the arrangement of local and backup hospital and medical services having the ability to evaluate radiation exposure and handle contaminated individuals, as well as a State list of hospitals able to provide medical support for contaminated injured individuals. These medical institutions have been

^{2/} Although the wording of the contention itself does not explicitly limit the medical services and contamination assistance aspects of the issue to hospitals, Sunflower's objection which formed the basis for this contention was clearly restricted to hospitals. Sunflower Alliance's Particularized Objection to Proposed Emergency Plans in Support of Issue No. 1, dated August 20, 1984, at 19. A contention cannot extend beyond the intervenor's own self-imposed limitations. Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Units 1 and 2), ALAB-675, 15 N.R.C. 1105, 1115 (1982).

appropriately identified in the Perry, Lake, Ashtabula, Geauga and State emergency plans. Linnemann Affidavit, ¶¶ 8, 11.

Although Sunflower's August 20, 1984 Particularized Objections (at 19) complains that the plans do not include such details as:

a complete inventorying of available resources of decontamination of personnel or patients at hospitals outside the 10 mile EPZ, nor of personnel with skills on treating radiation injuries on each shift; nor is there any overview of what medical personnel might be available for other, not-primarily-radiological injuries: looters/police/National Guard shooting victims, fire victims, vehicular accident victims, exhaustion, stroke or heart attack victims, etc.

there is simply no requirement that this level of detail is appropriate, or even if appropriate belongs in emergency plans. As NUREG-0654 (at 29) notes, "the plans should be kept as concise as possible." If this level of detail belongs anywhere, it belongs in procedures, which are not even required at the hearing stage. Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-732, 17 N.R.C. 1076, 1107 (1983).

Sunflower's contention also evidences a lack of understanding of the nature of medical services required for treating contaminated or exposed individuals, as indicated by its suggesting the need for equipment such as lead-lined operating rooms and radiation-resistant surgical gloves. Sunflower Objection at 19. No special emergency facilities are required to treat a case of radiation exposure, even if the

patient is injured. The patient poses no hazard to response personnel. Linnemann Affidavit, ¶¶ 2, 3. If a patient is contaminated and injured, any life-threatening traumatic injury or serious illness would take precedence over the radiation injury. Once the patient is stabilized, he would then be decontaminated and placed in a regular hospital bed. Id., ¶ 4. The decontamination process is a relatively easy one, involving a change of clothes and bathing. Nor does radiation injury require immediate action. Radiation injuries are seldom life-threatening. Their consequences unfold predictably over a period of time. Id. ¶ 4.

It is unlikely that an accident at a nuclear plant would require any large number of hospital beds. In Dr. Linnemann's substantial experience, involving 25 nuclear plant sites over 15 years, only two cases involved multiple injuries, with each case involving only two employees. Id., ¶ 10. Even a postulated accident with substantial off-site release of radiation would not result in the need for any large number of hospital beds for an injured population. It would not involve large numbers of traumatic casualties or severe contamination. Id., ¶¶ 5, 6. Even if there were multiple contaminated and injured personnel, existing hospital procedures for handling mass casualty situations would be applied and designated radiation emergency areas could be readily expanded. Id., ¶ 10.

The only way in which the off-site population could be affected would be through radiation exposure or contamination. And the characteristics of a radiation release from such an accident (distance, dispersion and absorption) make it unlikely that anyone off-site would receive enough exposure to initiate even the first symptoms of radiation sickness let alone hospitalization. Overexposure due to contamination is also unlikely, given the ease of decontamination and the high doses required. Id., ¶ 6. The medical responsibilities of a major nuclear power plant accident could be readily handled by present medical resources. Id., ¶ 7.

The three county plans identify Lake County Memorial Hospitals (East and West), Geauga Community Hospital and Ashtabula County Medical Center as the local hospitals for handling members of the public. The Perry emergency plan identifies Lake County Memorial Hospital East as the hospital to receive on-site injuries (Lake County Memorial Hospital West would be the backup hospital). Extensive training has been provided to personnel from each of these hospitals on handling radiation injury and contamination. Id., ¶ 9.

Beyond the four identified hospitals in the three EPZ counties, the State plan identifies some 50 hospitals in the region around the EPZ which can receive and care for most radiological accident cases. Thirty-seven of these have diagnostic and/or therapeutic radioisotope facilities and are thus already capable of handling radiologically contaminated

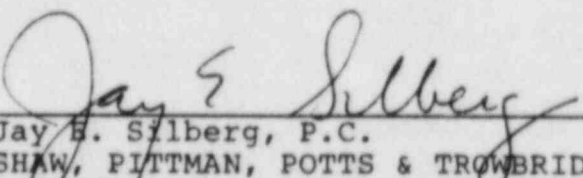
and injured patients. Id., ¶ 11. All the listed hospitals are accredited by the Joint Committee on Accreditation of Hospitals. One requirement of such hospitals is that they have procedures to deal with the emergency management of individuals who have actual or suspected exposure to radiation or who are radioactively contaminated. Id., ¶ 12.

Because of the many available hospitals and because radiation health effects are seldom if ever life threatening, the facilities identified in the emergency plans would be able to handle any conceivable patient load arising from an accident at Perry. Id., ¶ 12.

IV. CONCLUSION

Because there is no genuine issue of material fact to be heard on the issue of hospital services, Applicants' Motion For Summary Disposition of Contention P should be granted.

Respectfully submitted,


Jay E. Silberg, P.C.
SHAW, PITTMAN, POTTS & TROWBRIDGE
1800 M Street, N.W.
Washington, D.C. 20036
(202) 822-1000

Counsel for Applicants

Dated: February 5, 1985