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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of )

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

Docket No. 50-400 OL

(Shearon Harris Nuclear )  
Power Plant) )

APPLICANTS' RESPONSE TO EDDLEMAN  
PROPOSED CONTENTIONS ON BROCHURE  
EVACUATION ROUTE CHART

I. INTRODUCTION

In "Eddleman Contentions Concerning Emergency Plan Brochure Additions Served 4/16/85" (filed April 29, 1985), Mr. Eddleman proposes two new brochure contentions<sup>1/</sup> based on his review of the brochure's EPZ map and evacuation route chart served on the Board and the parties on April 16, 1985. Applicants respond herein to Mr. Eddleman's two new proposed contentions.

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<sup>1/</sup> Mr. Eddleman previously proposed 23 contentions (Eddleman 227-A through 227-W) assertedly based on the bulk of the Harris emergency public information brochure, which was served July 9, 1984. All but a part of one of those contentions were rejected. See "Rulings On Specification of Eddleman Offsite Emergency Planning Contention 215 and On The Admissibility of Eddleman Contentions On The Public Information Brochure" (October 4, 1984). The sole admitted contention (Eddleman 227-S) has been settled. See "Order Approving Settlement of Eddleman 227-S" (January 7, 1985).

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## II. DISCUSSION

### A. Applicable Standard For Admissibility of 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 Eddleman Proposed Contentions on Brochure" (August 28, 1984), at 2-7, citing "Applicants' Response to Supplement to Petition to Intervene by Wells Eddleman" (June 15, 1982), at 2-19. Accordingly, there is no need to here restate in full the Commission's requirements; rather, Applicants incorporate by reference the above-cited briefs.

### B. Regulations Applicable to Brochures

The Commission's emergency planning regulations, at 10 C.F.R. § 50.47(b)(7) and Part 50, Appendix E, § IV.D.2, establish the requirements for emergency preparedness public education. Section 50.47(b)(7) requires, in relevant part, that:

Information [be] made available to the public on a periodic basis on how they will be notified and what their initial actions should be in an emergency (e.g., listening to a local broadcast station and remaining indoors) \* \* \*.

Similarly, Part 50, Appendix E, § IV.D.2 requires the provision to the public of:

\* \* \* basic emergency planning information, such as the methods and times required for public notification and the protective actions planned if an accident occurs, general information as to the nature and effects of radiation, and a listing of local broadcast

stations that will be used for dissemination of information during an emergency.

Emphasis supplied.

C. The Purpose of The Brochure

Mr. Eddleman's two new proposed contentions are premised on a fundamental misperception of the role of the emergency public information brochure in the Commission's concept of operations for emergency management. The Commission's regulations on brochure content are purposely limited to the provision of "basic emergency planning information" (see 10 C.F.R. Part 50, Appendix E, § IV.D.2). The brochure is thus not intended to duplicate or obviate the need for provision to the public of additional, detailed information and instructions at the time of an accident by emergency response personnel and the EBS system. As one licensing board has recognized:

The most important informational function of the brochure is to prepare people to turn on their radio and television stations upon the activation of the sirens \* \* \*.

Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), LBP-83-27, 17 N.R.C. 949, 960 (1983), aff'd, ALAB-753, 18 N.R.C. 1321, 1331 (1983). This primary message -- when you hear the sirens, tune to your EBS station -- is repeatedly emphasized throughout the brochure. See, e.g., pages 1, 2, 3, 4, 14, 16 and the bottom of the page for each calendar month.<sup>2/</sup>

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<sup>2/</sup> These page references to the brochure reflect the re-pagination explained in the April 16, 1985 letter from Appli-

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See also Consumers Power Co. (Big Rock Point Plant), LBP-82-60, 16 N.R.C. 540, 544 (1982) (purpose of brochure is "to give residents and transients the information they need to respond to audible alarm systems and to be sufficiently knowledgeable to understand the importance of responding").

In short, contrary to Mr. Eddleman's apparent assumption, the purpose of the brochure is not to address in detail all possible contingencies, and to describe at length the "whys" and "wherefores" of all protective action options. Rather, the emphasis is on the provision of "basic" information through the brochure. The Commission's concept of operations contemplates that further, detailed, accident-specific information and instructions would be provided to the public by emergency workers and the EBS system at the time of an accident.

Indeed, the case law on point recognizes that the provision of extensive detailed information in the brochure would be counterproductive.

[T]he level of detail for any of these subjects [to be covered in the brochure] should be consistent with the purpose for which it is intended. Overemphasis on detail may defeat the purpose of a public information program on emergency measures.

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(Continued)

cants' counsel to the Licensing Board. Thus, the current pages 14 and 16 were numbered pages 10 and 12 when the brochure was served in July 1984.

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), LBP-81-59, 14 N.R.C. 1211, 1521 (1981). Further,

[A] pamphlet \* \* \* all-too-easily can become too elaborate and extensive to communicate effectively. If that were to occur, the pamphlet likely would go unread and its role as an action document would be defeated. \* \* \* \* [E]ach proposed addition to the pamphlet must be viewed with caution because additions may cumulatively increase its bulk and complexity and reduce its ability to communicate.

Consumers Power Co. (Big Rock Point Plant), LBP-82-60, 16 N.R.C. 540, 544-45 (1982).

Nor is absolute technical accuracy to be required. As one licensing board commented on a brochure:

While some of the information on radiation and upon nuclear power plants in general is not absolutely correct from a technical standpoint, any revisions made to secure absolute technical accuracy would render this information incomprehensible to the general public. \* \* \* [T]o inflate [material] to achieve textbook precision would defeat effective communication and would not enhance the public safety.

Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), LBP-83-27, 17 N.R.C. 949, 961-62 (1983), aff'd, ALAB-753, 18 N.R.C. 1321, 1331 (1983). See also South Carolina Electric & Gas Co. (Virgil C. Summer Nuclear Station, Unit 1), LBP-82-57, 16 N.R.C. 477, 491 (1982) (provision of detailed information "regarding the characteristics and consequences of nuclear accidents" is unnecessary).

#### D. The Role of The Licensing Board

The jurisdiction of a licensing board is limited to review of the brochure as an emergency planning document, to be judged against the Commission's established standards, set forth in Section B above. See Consumers Power Co. (Big Rock Point Plant), LBP-82-60, 16 N.R.C. 540, 548 (1982); Consolidated Edison Co. of New York (Indian Point, Unit No. 2), LBP-83-68, 18 N.R.C. 811, 943 (1983) (Licensing Board cannot demand more from brochure than regulatory requirements; "state-of-the-art" not required).

Nor are scarce adjudicatory resources to be squandered on the line-by-line litigation of emergency public information brochures. As one licensing board has observed:

Our role is uncomfortable because it can easily be misunderstood or mischaracterized as that of censor. However, we view ourselves as responsible only for seeing that necessary facts about the rapid response system are communicated, that there are no serious errors detracting from the credibility of the document, and that there are no serious omissions from the distributed material. We are not censors, but limit our concern to matters that affect the document's ability to achieve its intended purpose.

Consumers Power Co. (Big Rock Point Plant), LBP-82-60, 16 N.R.C. 540, 544 (1982) (emphasis supplied). This Licensing Board has thrice ruled that it will not act as "editors" of the brochure, and will admit only contentions which identify "gross" inadequacies in the brochure. See Tr. 829 (May 1-2, 1984 Prehearing Conference); "Rulings On Specification of



Eddleman Offsite Emergency Planning Contention 215 and On The Admissibility of Eddleman Contentions On The Public Information Brochure" (October 4, 1984) ("Brochure Order"), at 6; "Memorandum and Order (Ruling on Remaining Summary Disposition Motions)" (April 24, 1985), at 6. Accord, Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), Docket Nos. 50-352-OL, 50-353-OL, "Memorandum and Order Ruling On Limerick Ecology Action's Petition For Reconsideration of Rulings On Admissibility of Offsite Emergency Planning Contentions" (May 21, 1984), slip op. at 7 (expressly declining to "litigate the wording of brochures"). The Appeal Board has granted its imprimatur to this defined scope of review, ruling:

We doubt that unanimous agreement on every sentence of every brochure could ever be obtained. Such agreement is not required. Educational material must be judged in its entirety.

Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), ALAB-697, 16 N.R.C. 1265, 1274 (1982) (emphasis supplied). As discussed below, Mr. Eddleman's two new proposed contentions can be fairly characterized as pure "editing" of the brochure. Certainly he has identified no "gross" omissions or inadequacies in the document.

#### E. "The Five Factors"

To be admitted, contentions filed "late" (as Eddleman 227-CC and Eddleman 227-DD have been) must also be assessed by balancing the five factors set forth in 10 C.F.R.

§ 2.714(a)(1). Applicants do not dispute that, on balance, a consideration of the § 2.714(a)(1) factors does not weigh against admission of Eddleman 227-CC. However, as discussed below, Eddleman 227-DD is not based on newly-available information. Accordingly, Eddleman 227-DD must be rejected pursuant to 10 C.F.R. § 2.714(a)(1) as late-filed without "good cause." See Duke Power Co. (Perkins Nuclear Station, Units 1, 2 and 3), ALAB-431, 6 N.R.C. 460, 462 (1977) (emphasizing relatively greater weight to be accorded requirement for substantial justification for lateness).

#### F. The Proposed Contentions

##### 1. Proposed Contention 227-CC

Proposed Contention 227-CC asserts that an evacuation of the Harris EPZ would result in "confusion" because "[t]he brochure evacuation route listings do not give complete directions to the shelters." According to Mr. Eddleman, "[s]pecific maps to the shelters, or clear directions to each, should be in the brochure, to avoid confusion."

Mr. Eddleman either misapprehends the purpose of the emergency public information brochure, or is simply unaware of the specific provisions in the offsite plans designed to ensure



that evacuees are directed to the appropriate shelters outside the EPZ. Mr. Eddleman does not dispute (nor could he) that the brochure's evacuation route map and the chart of evacuation routes provide specific directions for the public from their homes inside the EPZ to safety outside the EPZ, all the way to the towns in which their shelters are located. Further, as discussed in Section C above, the purpose of the brochure is not to obviate the need for additional, more detailed instructions to the public at the time of an emergency. Thus, upon arrival at the town where an evacuee's shelter is located, the evacuee will be channeled directly to the shelter via directions provided by special "Evacuation Route" signs posted by the State Department of Transportation, and by traffic control personnel stationed along streets in the vicinity of the shelters at every point a turn is required.<sup>3/</sup> Re: "Evacuation Route" signs, see, e.g., State Plan, Part 1, § III.J.1.a; Parts 2-5, § IV.E.7.c(3). Re: traffic control personnel, see, e.g., State Plan, Part 1, § III.C.2.g; Part 2, §§ III.D.4, III.Q.2; Part 3, §§ III.D.4, III.R.2.b; Part 4, §§ III.D.4, III.E.4, III.F.1.i; Part 5, § III.D.5.<sup>4/</sup> Mr. Eddleman provides no basis whatsoever for the implication that the brochure, combined with

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<sup>3/</sup> As illustrated on the "Operations Map," the shelters are located on or near major roads designated as evacuation routes. See State Plan, Annex I.

<sup>4/</sup> All citations to the State Plan are to the April 1, 1985 "Change 2" to that plan, served on the Board and the parties on May 8, 1985.

these additional measures reflected in the State Plan, will be insufficient to assure that evacuees are properly directed to their shelters upon arrival in the towns where the shelters are located.

Moreover, as the Board here has previously recognized, "excessive detail in a brochure can diminish its usefulness." See Brochure Order, at 6. The inclusion in the brochure of street-by-street directions from the city limits to the shelters -- as Mr. Eddleman suggests -- would simply encumber the brochure and make it more dense and thus more difficult for unskilled readers, and is in any event unnecessary given the more specific measures planned by the State and the counties. Under these circumstances, Mr. Eddleman's proposed additions to the brochure amount to "editing" the brochure -- something this Board has refused to do.

## 2. Proposed Contention 227-DD

Eddleman 227-DD characterizes as "inappropriate" the heading of the chart of evacuation routes and shelters, on the ground that the heading allegedly "fails to make adequate distinction between evacuation and sheltering, and because it falsely implies that radioactive material cannot reach the shelters." As discussed in Section E above, the short answer to this proposed contention is that it is more than eight months late, without good cause. The heading of which Mr. Eddleman complains -- "How Will You Know Where To Go To Be

Safe?" -- was included on a mock-up of the chart when the bulk of the brochure was filed on July 9, 1984.5/ Accordingly, if Mr. Eddleman wished to challenge the heading of the chart, he was required to do so by August 10, 1984. See LBP-84-29B, 20 N.R.C. 389, 406 (1984). For this reason alone, Eddleman 227-DD must be rejected.

Further, it is unrealistic for Mr. Eddleman to level such criticisms at the chart heading in the abstract. Rather, the brochure must be judged in its entirety. See Three Mile Island, supra, ALAB-697, 16 N.R.C. at 1274 (1982) (educational material such as brochure "must be judged in its entirety"). There is no basis for either the claim that, taken as a whole, the brochure (including the chart heading) fails to distinguish between evacuation and sheltering or that the brochure on the whole is misleading regarding the properties of radiation. Moreover, while Mr. Eddleman is quick to criticize the language of the chart heading, he has failed to specify the language he would prefer. Again, in such circumstances, Mr. Eddleman's concern constitutes "editing" the brochure and is therefore not litigable. Eddleman 227-DD therefore must be rejected.

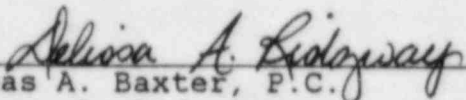
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5/ Even the captions to the columns on the chart were included on the mock-up in July, 1984. Thus, it is only the subzone designations, the evacuation routes, and the evacuation shelters which are newly included in the brochure. And even that information was previously available to the intervenors elsewhere.

### III. CONCLUSION

For all the reasons set forth above, Eddleman proposed Contentions 227-CC and 227-DD must be rejected.

Respectfully submitted,

  
Thomas A. Baxter, P.C.  
Delissa A. Ridgway  
SHAW, PITTMAN, POTTS & TROWBRIDGE  
1800 M Street, N.W.  
Washington, D.C. 20036  
(202) 822-1000

Richard E. Jones  
Dale E. Hollar  
CAROLINA POWER & LIGHT COMPANY  
Post Office Box 1551  
Raleigh, North Carolina 27602  
(919) 836-8161

Counsel for Applicants

DATED: May 9, 1985

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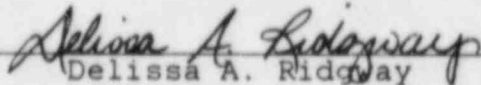
(Shearon Harris Nuclear )  
Power Plant) )

Docket No. 50-400

OFFICE OF SECRETARY  
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response to Eddleman Proposed Contentions on Brochure Evacuation Route Chart" were served this 9th day of May, 1985, by deposit in the U.S. mail, first class, postage prepaid, upon the parties on the attached Service List.

  
Delissa A. Ridgway

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SERVICE LIST

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

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

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

Charles A. Barth, Esquire  
Janice E. Moore, Esquire  
Elaine Chan, Esquire  
Office of Executive Legal Director  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. Daniel F. Read, President  
CHANGE  
Post Office Box 2151  
Raleigh, North Carolina 27602

John D. Runkle, Esquire  
Conservation Council of  
North Carolina  
307 Granville Road  
Chapel Hill, North Carolina 27514

M. Travis Payne, Esquire  
Edelstein and Payne  
Post Office Box 12607  
Raleigh, North Carolina 27605

Dr. Richard D. Wilson  
729 Hunter Street  
Apex, North Carolina 27502

Mr. Wells Eddleman  
718-A Iredell Street  
Durham, North Carolina 27705

Richard E. Jones, Esquire  
Vice President and Senior Counsel  
Carolina Power & Light Company  
Post Office Box 1551  
Raleigh, North Carolina 27602



Dr. Linda W. Little  
Governor's Waste Management Board  
513 Albemarle Building  
325 North Salisbury Street  
Raleigh, North Carolina 27611

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

Mr. Robert P. Gruber  
Executive Director  
Public Staff - NCUC  
Post Office Box 991  
Raleigh, North Carolina 27602

Administrative Judge Harry Foreman  
Box 395 Mayo  
University of Minnesota  
Minneapolis, Minnesota 55455

Spence W. Perry, Esquire  
Associate General Counsel  
FEMA  
500 C Street, S.W., Suite 480  
Washington, D.C. 20740

Steven Rochlis, Esq.  
Regional Counsel  
FEMA  
1371 Peachtree Street, N.E.  
Atlanta, Georgia 30309