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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'85 JUL 16 P3:23

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
GEORGIA POWER CO.	)	Docket Nos. 50-424
et al.	)	50-425
	)	(OL)
(Vogtle Electric Generating Plant,	)	
Units 1 and 2)	)	

NRC STAFF RESPONSE TO "JOINT INTERVENORS' REVISED CONTENTION RELATING TO EMERGENCY RESPONSE"

I. Introduction

Pursuant to the Licensing Board's "Memorandum and Order on Special Pre-hearing Conference Held Pursuant to 10 C.F.R. 2.715a," dated September 5, 1984, at page 36, Intervenors have filed a contention relating to Applicants' proposed radiological emergency response plan for Plant Vogtle. 1/ For the reasons set out below, the NRC Staff does not

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1/ The Staff does not agree with Applicants' assertions that the proposed contention is untimely. See "Applicants' Answer to Joint Intervenors' Proposed Contentions on Emergency Response Plans" (Applicants' Response) dated July 5, 1985, at 2-6. Although the Applicants' Plan has been available since May 1985, the earlier version of the plan, as noted by the Intervenors, was stamped "Preliminary Draft." In our view, this marking may well have caused Intervenors to fail to realize that the "preliminary draft" was sufficiently final to permit meaningful discussion and litigation. Moreover, the Intervenors' contention relates almost entirely to offsite matters, and was filed just seven weeks after the Applicant submitted its offsite plans; as such, the contention is no more than approximately three weeks late, an amount of time which, in these

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oppose admission of a portion of the contention proposed by Intervenors, but objects to admission of certain other portions of the contention.

II. Discussion

The Staff has previously set forth the general criteria for determining the admissibility of timely filed contentions and does not, therefore, restate them here. See "NRC Staff Response to Supplements to Petition For Leave to Intervene and Requests for Hearing Filed by Intervenors," dated May 14, 1984, at pages 2-3. It is worth noting, nonetheless, that to be admissible a contention must have a basis or bases set forth with reasonable specificity. 10 C.F.R. § 2.714(b). Additionally, contentions cannot be proposed which constitute an attack on Commission regulations. 10 C.F.R. § 2.758.

Intervenors have submitted a single conclusionary contention which, by itself, fails to set forth a basis with reasonable specificity:

> Applicants proposed emergency plan fails to provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at Plant Vogtle, as required by 10 CFR 50.33, 50.47, 50.54 and Appendix E to Part 50.

Nonetheless, the material set out after the contention does provide, in some instances, sufficient specificity to permit litigation of the contention, provided such litigation is limited to those bases which are

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> circumstances, should be viewed as de minimus. Accordingly, the Staff believes that any ambiguity regarding the timeliness of the proposed contention should be resolved in Intervenors' favor.

specific and which relate to matters required to be incorporated into an emergency response plan; without such a limitation of the contention, it must be rejected in whole.

Because the bases for the contention are diffuse and poorly organized, the Staff has attempted to subdivide the multi-part "basis" for each part of the contention, as set forth below. The Staff's efforts in this regard have been hampered by the manner in which the proposed contention is presented. For example, there are several instances where a sentence in one paragraph of the "basis" appears to relate to assertions made in another paragraph.

Paragraph 1. (Pages 2-3) Intervenors assert that Applicants' Plan fails to show that each principal response organization has the personnel to respond and to augment its initial response as required by 10 C.F.R. 50.47(b)(1). As an example of this assertion, Intervenors state that Applicants rely upon the Burke County Emergency Management Agency to coordinate emergency planning and operation activities, but that Burke County has no full-time emergency manager or office. Additionally, Intervenors assert that in listing the state agency resources available to respond to an emergency at Plant Vogtle (Table D-1 of the plan), Applicants fail to include an estimate of the number of personnel available at each agency. The Staff opposes admission of these matters, since no reason has been shown by Intervenors to believe that the Burke County Emergency Management Agency would be unable to respond effectively to a radiological emergency at Plant Vogtle. Further, there is no statutory or regulatory requirement that a county must have a full-time emergency manager or office, or that an applicant must include an

estimate of the number of personnel available at state agencies which would respond to an emergency at Plant Vogtle. 10 C.F.R. § 50.47(b)(1), which is the only regulation set out in the contention, does not require either a full-time emergency manager or officer or a specification of the number of personnel available to respond to an emergency.

Paragraph 2. (Pages 3-4) In the second paragraph of the "basis" portion a of the contention, Intervenors assert that Applicants fail to show that provisions exist for prompt communications among principal response organizations to emergency personnel and the public, as required by 10 C.F.R. 50.47(b)(6). This assertion is followed by nine separate "examples" or assertions. The Staff has no objection to the litigation of a portion of this paragraph, but objects to the admission of other portions.

The first subpart of this paragraph relates to the means of communication among local governments and respective department/agency personnel within the plume exposure pathway. As was the case with paragraph 1 above, Intervenors have failed to show that the additional methods of communication among local governments etc., within the plume exposure pathway, beyond that which has been provided by Applicants, is required in this instance, or generally by regulation. Additionally, the Applicants have demonstrated at pages 18-19 of Applicants' Response, that Intervenors' assertions have no basis in fact since Applicants' primary means of emergency communications are "dedicated" telephone circuits. Thus, this part of the contention must be rejected.

The second through fourth portions of this paragraph relate to the use of tone alert radio receivers, televisions or radios as means of

warning the public, and whether they would be effective and available. The Staff has no objection to litigation of these portions of the paragraph as part of an emergency planning contention because Intervenors have set out a basis with reasonable specificity.

In the fifth part of this paragraph, Intervenors cite a statement by the Acting Director of Emergency Management of Richmond County, that she occasionally has difficulty contacting emergency personnel in Burke County due to the lack of a full-time emergency planner. The Staff objects to this part of the basis. As noted above, Commission regulations do not require a full-time county emergency planner. Moreover, the existence of dedicated telephone lines would appear to render this concern academic.

The Staff objects to the sixth and seventh subparts of this portion of the contention as there is no regulatory requirement for the installation or operation of fixed sirens, in lieu of or in addition to the warning systems provided for in the emergency plan. See NUREG-0654, FEMA-REP-1, Rev. 1, at 3-2 and 3-16, which discusses the use of tone alert radios as an alerting system.

The Staff objects to admission of the eighth and ninth portions of this paragraph, relating to notification and evacuation of transients who are unfamiliar with the area in question or the hearing impaired, because Intervenors have not provided any basis or reason to believe that Applicants' plan is inadequate. See NUREG-0654, Criterion G.2.

Paragraph 3. (Page 4) The Staff objects to admission as a part of the bases to the contention of the first full paragraph on page 4 of Intervenors' filing. As noted above, the Intervenors have failed

to show that additional means of communication among local governments is required in this instance, or generally by regulation.

Paragraph 4. (Page 4) With the exception noted below, the Staff objects to the admission of the second full paragraph on page 4 of Intervenors' filing. The first part of this paragraph generally asserts that Applicants have failed to show that adequate emergency facilities and equipment to support an emergency response are provided and maintained. This proposed contention is inconsistent with the Commission's recent Statement of Policy (50 Fed. Reg. 20892, May 21, 1985) which was issued in response to the Guard decision [2/] and should be rejected. The Commission's Statement of Policy provides that, "until the Commission concludes its Guard remand and instructs its boards and its staff differently," it is reasonable to limit contentions on this subject "to issues which could have been heard before the Court's decision in Guard v. NRC" (50 Fed. Reg. 20894) -- that is, to whether the plans identify the existing medical facilities. The Intervenors have not asserted that existing medical facilities are not identified in the Applicants' plans and, accordingly, the contention is inadmissible. [3/] Also, the second part of this paragraph, dealing with whether there are adequate facilities to serve a large number of injured

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2/ Guard v. NRC, 753 F.2d 1144 (D.C. Cir. 1985).

3/ The Commission's Statement of Policy also requires applicants to commit to full compliance with the Commission's ultimate response to the Guard remand. The Intervenors have not asserted that the Applicants are not committed to such regulatory compliance.

persons in the event of an external accident or event which also causes an accident at the plant, is similarly inadmissible; there is no regulatory requirement that Applicant plan for such an event. The Staff has no objection to admission of the last part of the paragraph which, in effect, deals with whether the designated Reception Center would be immediately available for use in an emergency at Vogtle.

Paragraph 5. (Pages 4-5) The Staff objects to the admission of this paragraph, commencing at the bottom of page 4 and concluding at the top of page 5, since it lacks specificity. Intervenors have failed to indicate how or why the pre-emergency education and post-emergency notification procedures set out in the emergency plan are not adequate.

Paragraph 6. (Page 5) This paragraph generally discusses the need for simultaneous evacuations arising from radiological accidents at Plant Vogtle and the DOE's Savannah River Plant. The Staff objects to admission and litigation of this matter, since there is no requirement that the Applicants plan for simultaneous emergencies at the Savannah River Plant in its emergency plan for Vogtle. As to earthquakes, this matter is precluded for the reasons set forth below in the discussion relating to paragraph 8. The last sentence, which asserts a lack of coordination of activities of Georgia and South Carolina agencies, lacks specificity and should be rejected as a basis for the contention.

Paragraph 7. (Page 5) The Staff opposes admission of the second full paragraph on page 5 as a part of the proposed contention. There is no regulatory requirement for Applicant to address or prepare for the "evacuation of the 145,000 citizens of Augusta who live within 26 miles of Plant Vogtle," i.e., well outside of the EPZ. This paragraph

constitutes a challenge to 10 C.F.R. 50.47(b)(2) which generally provides for a 10 mile radius for the plume exposure pathway EPZ.

Paragraph 8. (Pages 5-6) The Staff objects to admission, as a part of the basis to the contention, of the paragraph that commences at the bottom of page 5 and concludes at the top of page 6, which asserts that Applicants' plan fails to address earthquake situations, including the assertion that in the event of an earthquake, sheltering is not possible as residents are directed to remain outside houses and other building. This matter cannot be litigated under the Commission's decisions in Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-84-12, 20 NRC 249 (1984), and Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-81-33, 14 NRC 1091 (1981). See also, Proposed Rule, "Emergency Planning and Preparedness for Production and Utilization Facilities," 49 Fed. Reg. 49640 (Dec. 21, 1984). The Staff also objects to the last sentence in this paragraph, which asserts that Applicants have failed to provide a complete list of orchards and farms within the ingestion pathway EPZ. There is no regulatory requirement for the listing of each individual farm or orchard within the 50-mile ingestion pathway EPZ. Cf. NUREG-0654, Criterion J.11.

Paragraph 9. (Page 6) The Staff objects to the admission of the first full paragraph on page 6 relating to plans for the evacuation of construction workers at Vogtle Unit 2, on the grounds that it lacks specificity. Also, as noted at page 47 of Applicants' Response, this assertion is factually incorrect since the Vogtle emergency response plan assumes an onsite work force with Unit 1 in operation and Unit 2 still under construction. Intervenors have not alleged why Applicant's Plan is

inadequate in this regard. (The second full paragraph on page 6 constitutes a summary or conclusion and, in the Staff's view, is not a part of the basis for the proposed contention).

III. Conclusion

For the reasons set out above, the Staff objects to the contention on emergency planning at Vogtle as lacking specificity except as limited to the issues of (1) the means of notifying the public, and (2) the availability of reception centers.

Respectfully submitted,

Bernard M. Bordenick

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Dated at Bethesda, Maryland
this 15th day of July, 1985

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO 'JOINT INTERVENORS' REVISED CONTENTION RELATING TO EMERGENCY RESPONSE'" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 15th day of July, 1985.

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