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September 3, 1985

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
PLANNING & 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' REPLY TO THE PROPOSED FINDINGS OF FACT  
AND CONCLUSIONS OF LAW ON EMERGENCY PLANNING MATTERS  
FILED BY OTHER PARTIES

I. Introduction

1. Applicants' Proposed Findings of Fact and Conclusions of Law on Emergency Planning Matters (August 1, 1985) ("Applicants' Findings") fairly and accurately reflect the record in this proceeding. Moreover, Applicants are substantially in agreement with the NRC Staff/FEMA Proposed Findings of Fact and Conclusions of Law on Emergency Planning Contentions EPJ-4(b) and Eddleman 57-C-10 (August 22, 1985) ("NRC Staff/FEMA Findings"). Applicants' Reply below is accordingly limited.

II. Eddleman 57-C-10  
(Protection Factors of Institutional,  
Commercial and Industrial Structures)

2. Intervenor Wells Eddleman submitted proposed findings of fact and conclusions of law on his Contention 57-C-10. See Wells Eddleman's Proposed Findings/Conclusions on Contention 57-C-10 and Emergency Planning (August 12, 1985) ("Eddleman Findings"). Applicants' Findings fully address Contention 57-C-10.

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Accordingly, this Reply addresses only the most significant errors in the Eddleman Findings.

3. Several of Mr. Eddleman's proposed findings represent a continuation of his determined effort to inject issues into the proceeding that are outside the scope of the contention. In ruling on Applicants' motion for summary disposition, the Board limited the issue litigated in Contention 57-C-10 to the "adequacy of the Applicants' review of sheltering other than single family residential" in Applicants' survey of potential shelters in the plume exposure pathway emergency planning zone (EPZ) of the Harris plant. This issue concerns whether the Harris offsite emergency plan should include information on the sheltering effectiveness of "typical institutional structures (schools, churches, etc.), commercial structures and industrial facilities in the plume EPZ" in order to comply with Evaluation Criterion J.10.m. of NUREG-0654. Memorandum and Order (Ruling on Remaining Summary Disposition Motions) at 6-7 (April 24, 1985). In ruling on objections during the hearing, the Board reiterated this position and rejected Mr. Eddleman's attempts to expand the scope of the contention. Tr. 7930-34; 8006-09; 8055-56. Mr. Eddleman proposes findings of fact concerning whether "there is reason to move people to structures of higher protection factor" (Eddleman Findings, ¶ 13); comparing the range of protection factors for certain nonresidential structures to those for a single story brick house with no basement (Id. ¶¶ 19-20); concerning whether information about evacuation being the preferred protective action should be in the offsite plan (Id., ¶ 24); and criticizing Joseph F. Myers, Director of the N. C. Division of Emergency Management, for relying on his staff in making protection factor assessments (Id. ¶¶ 14,15,17). These proposed findings are outside the scope of Contention 57-C-10 and should be disregarded by the Board. Similarly, Proposed Conclusion C should be disregarded to the extent it is based on these findings.

4. Mr. Eddleman cites Applicants' witness Guy Martin, Jr. for the proposition that " 'expected protection' as used in NUREG-0654 Criterion II.J.10.m. means, founded on specific measurements or calculated measurements." Eddleman Findings, ¶3. While this is an accurate excerpt from Mr. Martin's answer to questioning on cross-examination, Mr. Eddleman misuses the answer to support his position that infiltration (or air exchange) rates should have been calculated for each individual building that was surveyed. Eddleman Findings, ¶¶4,11,16, and Conclusion C. Mr. Eddleman also misuses Mr. Martin's answer to argue that the protection factor (PF) estimates for churches and small commercial structures are inadequate because "there was no direct determination" of them. Eddleman Findings, ¶18. Mr. Martin's answer on cross-examination was not intended to mean or imply that air infiltration or other measurements must be calculated for each individual building that was surveyed. Mr. Martin made it clear in his direct testimony and on cross-examination that he relied on published data for different categories of buildings to estimate the air exchange rates of industrial and commercial buildings in the Harris EPZ. Direct Testimony of Guy Martin, Jr. on Eddleman Contention 57-C-10 (Protection Factors of Institutional, Commercial and Industrial Structures) ff. Tr. 7895 (hereinafter "Martin"), at Att. 5, p. 1; Tr. 8027. This information had been previously calculated. Since these values were available in the literature and had been found acceptable, there was no reason to measure air exchange rates for individual structures in the EPZ. Tr. 8027. Mr. Martin testified that the PF values for churches and small commercial structures were derived based on a comparison with the construction features of residences in the EPZ. Mr. Martin had previously calculated the PFs for typical residences. Martin at 10, 12. The validity of the air exchange rate estimates that Mr. Martin used and his PF estimates for residences is unchallenged in this record.

5. Mr. Eddleman proposes several findings suggesting that information on the "average wind speed" around the Harris Plant should have been factored into the air exchange rate used to calculate inhalation exposure PFs. Eddleman Findings, ¶¶ 7,9-10. There is nothing in this record to suggest that knowledge of average wind speeds is required to estimate inhalation exposure PFs or that consideration of such information would result in significantly different PF values than those derived by Mr. Martin. Indeed, Mr. Martin testified that knowing the wind speed is not important in determining the inhalation dose. Tr. 8050.

6. Several of Mr. Eddleman's proposed findings are complaints about the particular information that will or will not be included in the offsite emergency plan. Eddleman Findings, ¶¶ 8, 11-12. Proposed finding 8 incorrectly states that Mr. Myers testified that only Attachment 8 and Attachment 5, p. 4 of Mr. Martin's prefiled testimony would be included in the plan. In fact, Mr. Myers indicated that a summary dealing with the protection factors of smaller commercial establishments and churches would also be in the plan. Tr. 8058. Mr. Eddleman complains that "air infiltration rate data" will not be included in the plan. Eddleman Findings, ¶ 11. But there is no NRC or FEMA requirement (in NUREG-0654 or otherwise) that such detailed information that was used to derive the PFs be in the plan itself, and Mr. Eddleman does not suggest how such data would be useful to decisionmakers if it were included in the plan. Mr. Eddleman also complains that the protection factor summaries to be included in the plan "collapse data to the point that the ranges given are not typical of the actual structures within the EPZ." Eddleman Findings, ¶ 12. Evaluation Criterion J.10.m. of NUREG-0654 does not require information on the PFs of individual "actual structures," and the Board suggested that information on "typical" industrial, commercial and institutional structures be included. Memorandum and Order (Ruling on Remaining Summary Disposition Motions) (April 24, 1985) at 6-7. In compliance with this Order, Applicants

categorized the nonresidential structures in the EPZ and surveyed typical structures in each category. Martin at 7-8. The PF ranges to be included in the offsite emergency plan represent the ranges of PFs that were obtained from this survey. Thus, they are the ranges of PFs found for the categories of typical nonresidential structures in the EPZ. Inclusion of these values in the plan will comply with Criterion J.10.m. and the Board's Order.

7. Mr. Eddleman's proposed findings on Contention 57-C-10 provide no support for the position he has advocated on this contention. Accordingly, and in view of the testimony by the witnesses proffered by Applicants and the Federal Emergency Management Agency, Eddleman Contention 57-C-10 should be rejected.

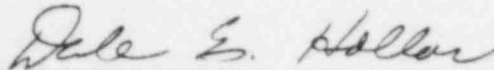
III. EPJ-4(b)  
(Role Strain in Adult School Bus Drivers)

8. Although the Licensing Board directed all parties to file proposed findings of fact and conclusions of law (Tr. 8159-60), Intervenors failed to make any such filing on Contention EPJ-4(b). Accordingly, pursuant to 10 C.F.R. §2.754(b), Intervenors are in default with respect to that contention.<sup>1</sup> See NRC Staff/FEMA Findings, at page 18 n.8. Intervenors' default notwithstanding, the Board has reviewed and is in agreement with the proposed findings on EPJ-4(b) filed by Applicants and the NRC Staff/FEMA, and reflects these findings in its decision.

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<sup>1</sup>See, e.g., Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Unit No. 2), ALAB-280, 2 N.R.C. 3, 4 n. 2 (1975); Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-717, 17 N.R.C. 346, 371-72 (1983); Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), LBP-83-27, 17 N.R.C. 949, 954 (1983); Texas Utilities Generating Co. (Comanche Peak Steam Electric Station, Units 1 and 2) LBP-83-43, 18 N.R.C. 122, 124, 130 (1983); Kansas Gas & Electric Co. (Wolf Creek Generating Station, Unit 1), LBP-84-26, 20 N.R.C. 53, 61 n.3 (1984). See generally Detroit Edison Co. (Enrico Fermi Atomic Power Plant, Unit 2), ALAB-709, 17 N.R.C. 17, 23-24 (1983).

Respectfully submitted,



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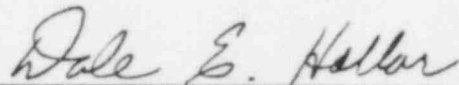
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Proposed Findings of Fact in Reply to the Proposed Findings of Fact and Conclusions of Law Submitted by Wells Eddleman on Contention 57-C-10" were served this 3rd day of September, 1985 by deposit in the United States mail, first class, postage prepaid, to the parties on the attached Service List.



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