

October 23, 2000

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
Carolina Power & Light Company	)	Docket No. 50-400-OLA
	)	
(Shearon Harris Nuclear Power Plant)	)	ASLBP No. 99-762-02-LA
	)	

NRC STAFF'S RESPONSE TO ORANGE COUNTY'S  
SECOND SET OF ENVIRONMENTAL DISCOVERY REQUESTS  
DIRECTED TO NRC STAFF

The Nuclear Regulatory Commission staff (Staff) hereby files its response to Orange County's<sup>1</sup> Second Set of Environmental Discovery Requests Directed to NRC Staff, filed October 6, 2000, responding to the interrogatories contained therein.

As a preliminary matter, the Staff notes that it is not required to respond to BCOC's discovery request absent prior findings by the Atomic Safety and Licensing Board (Board) that such response should be required, pursuant to 10 C.F.R. § 2.720(h)(2)(ii)(in the case of the interrogatories)<sup>2</sup> and 10 C.F.R. § 2.744 (d) (in the case of the request for production of documents).<sup>3</sup>

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<sup>1</sup> Hereinafter "BCOC" or "Intervenors."

<sup>2</sup> 10 C.F.R. § 2.720(h)(2)(ii) provides that "[u]pon a finding by the presiding officer that answers to the interrogatories are necessary to a proper decision in the proceeding and that answers to the interrogatories are not reasonably obtainable from any other source, the presiding officer may require that the staff answer the interrogatories."

<sup>3</sup> 10 C.F.R. § 2.744(c) provides that if the Executive Director for Operations ("EDO") objects to producing a record or document, the requesting party must make written application to the presiding officer to compel production, and the document is then to be reviewed *in camera* by the presiding officer. 10 C.F.R. § 2.744(d) provides that the presiding officer must determine that (1) the document or record is relevant, (2) its production is not exempt from disclosure under § 2.790, or if exempt, that its disclosure is necessary to a proper decision in the proceeding, and (3) the information contained in the record or document is not reasonably obtainable elsewhere, before ordering the EDO to produce the document.

Notwithstanding these regulations, without waiving any objections or privileges, and except as specified below, the Staff is now voluntarily providing responses to BCOC's discovery requests. By responding to the instant discovery request, the Staff does not waive its right to require that the appropriate procedure be followed and that the required findings be made, pursuant to the Commission's regulations, before responding to any future discovery requests.

#### I. GENERAL OBJECTIONS

1. The Staff objects to Intervenor's discovery requests to the extent that they call for disclosure of litigation strategy and other material protected under 10 C.F.R. § 2.740 or other protection provided by law, attorney work product, privileged attorney-client materials, and other privileged materials, such as draft agency documents protected by executive privilege.

2. The Staff objects to Intervenor's discovery requests to the extent that they call for irrelevant materials, not reasonably calculated to lead to the discovery of admissible evidence, are unreasonably cumulative, and are obtainable from another source that is more convenient, less burdensome, or less expensive.

3. The Staff objects to Intervenor's discovery requests to the extent that they request information or documents relating to licensees and/or entities other than Carolina Power & Light Company's Shearon Harris Nuclear Power Plant. Such discovery requests call for information which is irrelevant, immaterial, and not calculated to lead to the discovery of admissible evidence, and are overbroad and unduly burdensome.

#### A. INTERROGATORIES

INTERROGATORY NO. 1. For all versions and revisions of the IPE, IPEEE, and PSA for the Harris nuclear power plant, identify any and all review(s) that the NRC Staff has conducted. Identification of these reviews should include the date of the review, the precise subject and scope of the review, the name of any NRC Staff contractor organization that participated in the review, and the names of any NRC Staff members, individual contractors or contractor

employees who participated in the review. In addition, please identify any documents that contain discussion of these reviews. If such documents have not been produced in response to Orange County's previous document production requests, either produce them or provide justification for their nondisclosure.

STAFF RESPONSE:

The Staff objects to the extent that the request seeks predecisional or privileged material or draft agency documents exempt from disclosure pursuant to 10 C.F.R. § 2.790. Without waiving that objection, the Staff answers as follows:

IPE: The NRC Staff issued its evaluation of the Harris IPE on January 26, 1996 (Accession No. 9601300315). The Staff evaluation section was prepared by Edward Chow, NRC, Office of Research. The front-end technical evaluation was prepared by Science and Engineering Associates, Inc. (John L. Darby, edited by James R. Lynch and Willard Thomas). The back-end technical evaluation was prepared by Energy Research, Inc. for Scientech, Inc. (R. Vijaykumar, A. Kuritzky, and M. Khatib-Rahbar). The human reliability analysis was prepared by Concord Associates, Inc. (P.M. Haas) (Accession No. 9602020048).

The following documents refer to the IPE review:

Letter from N.B. Le, NRC, to W.R. Robinson, CP&L, December 6, 1996 (Accession No. 9601300315)

Safety Evaluation Report, issued December 6, 1996 (Accession No. 960130018).

Letter from W.R. Robinson, CP&L, forwarding supplemental information, September 18, 1995 (Accession No. 9509250025).

Letter from W.R. Robinson, CP&L, January 25, 1995, forwarding additional information (Accession No. 9501250408).

Letter from W.R. Robinson, CP&L, December 19, 1994 (Accession No. 9501040264).

Letter from N.B. Le, NRC, to W.R. Robinson, CP&L, requesting additional information, October 12, 1994 (Accession No. 9410170238).

Letter from J.A. Fields, NRC, to P.M. Haas, Concord Assoc., Inc., March 2, 1994 (Accession No. 9404080183).

Letter from J.A. Fields, NRC, to I. Colina, Science & Engineering Assoc., Inc., March 1, 19994 (Accession No. 9404080182).

IPEEE: The NRC Staff issued its evaluation of the Harris IPEEE on January 14, 2000 (Accession No. ML003677142). The staff evaluation portion was prepared by Arthur Buslik, NRC, Office of Research. The seismic portion was prepared by Brookhaven National Laboratory (John Lehner, et al.). The fire portion was prepared by Sandia National Laboratories (Julie J. Gregory and Richard E. Pepping) and Science Applications International Corporation (Jeffrey L. LaChance). The high winds, floods, transportation, and other external events portion was prepared by Arthur Buslik, NRC, Office of Research.

The following documents refer to the IPEEE review:

Letter from V.L. Rooney, NRC, to W.R. Robinson, CP&L, requesting additional information, December 15, 1997 (attached).

Letter from W.R. Robinson, CP&L, responding to RAI, February 16, 1998 (Accession No. 9802230246).

Letter from W.R. Robinson, CP&L, forwarding IPEEE, June 30, 1995 (Accession No. 9507060075).

Letter from N.B. Le, NRC, to W.S. Orser, CP&L, August 12, 1993 (Accession No. 9308270265).

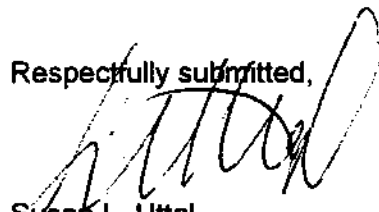
Meeting Summary from September 10, 1992 meeting, re: IPEEE schedules, October 15, 1992 (Accession No. 9210270149).

INTERROGATORY NO. 2. Please define the term "peer review" or "peer reviewed" as it is used in Document Request No. 4 of NRC Staff's First Set of Interrogatories and Requests for Production of Documents Directed to the Board of Commissioners of Orange County (September 8, 2000).

STAFF RESPONSE:

Peer review is a process in which an unbiased group judges the scientific significance and technical validity of the work of members of its own community. The goal of scientific peer review is to determine the quality, relevance, and value of the work being judged. Peer reviewers, individually or collectively, should have the requisite technical expertise and work experience required for thorough evaluation of all aspects of the work being judged. Publication in peer-reviewed scientific and technical journals is one approach to peer review.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "S. Uttal", is written over the typed name.

Susan L. Uttal  
Counsel for NRC Staff

Dated at Rockville, Maryland  
this 23rd day of October 2000

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
CAROLINA POWER & LIGHT COMPANY	)	Docket No.50-400-LA
	)	ASLBP No. 99-762-02-LA
(Shearon Harris Nuclear Power Plant)	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO ORANGE COUNTY'S SECOND SET OF ENVIRONMENTAL DISCOVERY REQUESTS DIRECTED TO NRC STAFF" in the above-captioned proceeding have been served on the following through deposit in the NRC's internal mail system, or by deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in U.S. Postal Service as indicated by double asterisk, with copies by electronic mail as indicated this 23rd day of October, 2000:

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