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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
CAROLINA POWER & LIGHT COMPANY)	Docket Nos. 50-400 OL
AND NORTH CAROLINA EASTERN)	50-401 OL
MUNICIPAL POWER AGENCY)	
)	
(Shearon Harris Nuclear Power)	
Plant, Units 1 and 2))	

APPLICANTS' RESPONSE TO AMENDMENTS (SECOND SET)
TO CONTENTIONS OF PETITIONER WELLS EDDLEMAN

In a pleading entitled "6/28/82 amendment to petition to intervene by Wells Eddleman, pro se" (hereinafter "June 28 Amendment"), petitioner Eddleman proffers a second set of amendments to his contentions originally filed on May 14, 1982 ("Supplement to Petition to Intervene") and amended and augmented on June 5, 1982 ("Amendments to Contentions and Additional Contentions ..."). On June 15, 1982, Applicants responded to Mr. Eddleman's first set of proposed contentions in "Applicants' Response to Supplement to Petition to Intervene by Wells Eddleman" (hereinafter "Applicants Response to Eddleman"). On June 21, 1982, Applicants responded to Mr.

Eddleman's first set of amendments and his additional contentions in "Applicants' Response to Amendments to Contentions and Additional Contentions of Wells Eddleman". Pursuant to 10 C.F.R. § 2.714(c), Applicants Carolina Power & Light Company ("CP&L") and North Carolina Eastern Municipal Power Agency herein present their response to the June 28 Amendment.

Applicants have previously opposed each of the contentions which Mr. Eddleman now seeks to amend. With two exceptions, Applicants maintain that, as amended, the contentions fail to meet the legal requirements for admission as litigable issues in an adjudicatory proceeding.^{1/} In some cases, the June 28 Amendment provides little more than a rehash of unsupported assertions raised in the original "Supplement to Petition to Intervene". Applicants address seriatim below each contention as amended in the order presented in the June 28 Amendment.

Contention 3 (Management Capability)

In the June 28 Amendment at 2-6, Mr. Eddleman offers eight subcontentions to his broad-sweeping management capability contention. The majority of these issues have been previously raised by Mr. Eddleman and discussed by Applicants. We address in order the issues raised in paragraphs numbered (1), (2), (2a), (3)-(7).

^{1/} See Applicants' Response to Eddleman at 2-16 for a general discussion of the legal requirements which proposed contentions must meet in order to be admitted for adjudication in this proceeding.

Mr. Eddleman first suggests again that the radiation health protection experience at Applicant CP&L's other nuclear plants creates "reasonable doubt as to the truthfulness of any claims CP&L will do better at Harris." June 28 Amendment at 2. There is no basis whatsoever for the unsupported allegations set forth by Mr. Eddleman at paragraph (1). Applicants deny that "CP&L has repeatedly and continually failed to meet radiation protection and health physics standards" or that it has "violated NRC Regulations by overexposing workers to radiation on numerous occasions". Furthermore, Mr. Eddleman fails to provide any nexus between the experience at the Brunswick Plant (a BWR with different radiation health protection problems) and the operation of the Harris Plant. These naked assertions by Mr. Eddleman do not support admission of a contention on management capability.

Paragraphs (2) and (2a) refer to the so-called Jacobstein Report. The suggested inadequacies are vague at best. Furthermore, the Jacobstein Report is inappropriate as the basis of any contention relating to CP&L's general operational or management capability as discussed in Applicants' Response to Eddleman at 175-176. Mr. Eddleman provides no basis for the assertions in these two paragraphs nor any support for his claim that statements by CP&L and the NRC staff in the 1979 remand hearing on management capability in this docket have proved to be false, incomplete or inaccurate.

Mr. Eddleman's assertions in paragraph (3) that CP&L's difficulties in operating three nuclear units portend an inability to operate a total of five nuclear units safely is vague and unsupported.

Similarly, paragraph (4) asserts without basis that the more CP&L is involved in the design and operation of a nuclear plant the worse the plant is. Mr. Eddleman has offered this suggestion previously but provides no support for his assertion and no basis for this contention.

At paragraph (5) Mr. Eddleman again raises the issue of a "paycut" to workers transferred to the Harris Plant. "Paycut" is a misnomer; until the Harris Plant is operating Harris workers are not eligible for a fifteen percent bonus for working at an operating nuclear plant. As discussed in Applicants' Response to Eddleman at 180-181, Mr. Eddleman has provided no support whatsoever for the wholly speculative assertion that the pay policy at the Harris Plant will lead to any sort of problems affecting public health and safety. In fact, the fifteen percent bonus will be available to Harris workers once the plant is deemed operational.

At paragraph (6) Mr. Eddleman suggests that the numbers of licensee event reports (LER's) at CP&L's Brunswick Plant infer something negative about the management capability of the Brunswick Plant and thus provide support for a contention on management capability at the Harris Plant. The question of a

negative inference that might be made concerning a licensee's management capability from the numbers of LER's submitted was addressed directly by the TMI Restart hearing board. That Board found that "no reliable conclusions can be drawn from a purely statistical comparison of Licensee's LER's with industry-wide LER's." Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit 1 (Restart)), LBP-81-32, 14 N.R.C. 381, 533 (1981). Mr. Eddleman's unsupported assertions regarding "lots of LER's" at Brunswick says nothing about the management capability of CP&L.

Paragraph (7) is no more than a summation of the previous paragraphs. Thus, Mr. Eddleman has simply failed to establish any basis with the requisite specificity to support a contention regarding the management capability of Applicants to operate the Harris Plant. See, generally, Applicants' Response to Eddleman at 173-85.

Contention 61b (Nuclear Fuel Cycle Health Effects)

Mr. Eddleman admits that he cannot identify the basis of his assertions in Contention 61b and that the NUREG cited in his Contention is inaccurate. The information provided by Mr. Eddleman in his June 28 amendment (at 7) offers no clarity to the muddled Contention, and simply supports Applicants' objection for lack of clarity and failure to state a basis with requisite specificity.

Contention 37(d) (Health Effects of Radiation)

Mr. Eddleman provides a statement of references for his assertion of "biased studies and erroneous calculation of food chain and other ecological concentrations." June 28 Amendment at 7. However, Mr. Eddleman had already referred to such studies in his proposed Contention 37. He still has not responded to Applicants' objection to the vagueness of the Contention which does not adequately notify the parties of the issue which he seeks to litigate. No reference is made to those certain calculations to which Mr. Eddleman objects. No nexus is established between those unspecified calculations and operation of the Harris Plant. The information provided in this amendment does not cure these fatal deficiencies.

Contention 29 (Radioiodine Releases)

Contention 29 as originally drafted consists of an introduction and eight parts raising disparate arguments with respect to the release, monitoring and effects of radioiodines. It is not clear to Applicants how Mr. Eddleman proposes to amend Contention 29 by providing the references set forth in the June 28 Amendment (at 7). Mr. Eddleman has not stated in an intelligible manner the specific way the Harris Plant design or its radiological monitoring program has failed to take into account radioiodine releases during both normal operating conditions and anticipated occurrences. The objection stated in Applicants' Response to Eddleman at 109-12 still applies.

Mr. Eddleman has added a handwritten note as an amendment to Contention 29 to the effect that release points 3, 4, 6 and 7 (TMI-62 of the FSAR) "have no ability to sample particulates and iodine due to the high humidity." June 28 Amendment at 24. There is simply no basis presented for this Contention nor is it clear how it is to be construed in light of Contention 29 as originally drafted. However, the release points in the condensate vacuum effluent treatment system will be monitored by a wide range noble gas monitor which is capable of sampling for both particulate and radioiodines. FSAR §§ 11.5.2.7.2.9, 11.5.2.5.11. (Amendment 3). The handwritten information is incorrect.

Contention 29 remains vague and unsupported and incapable of being litigated in an adjudicatory proceeding.

Contention 65 (Defective Base Mats)

In his Amendment to Contention 65, Mr. Eddleman simply realleges that there is a "repeated record of leaving voids in containments and base mats of nuclear units" by Daniel International. June 28 Amendment at 7. Mr. Eddleman cites to no documentation in support of his allegation. Mr. Eddleman provides no basis for calling to question the QA supervision by CP&L of construction activities nor does his allegation of "supervisors not being present much inside the Plant" at Brunswick have any conceivable connection with QA supervision of contractor personnel at the Harris construction site. As

amended, Contention 65 provides absolutely no basis to suspect there are construction defects at the Harris Plant.

Contention 64 (Spent Fuel Storage and Transportation)

Mr. Eddleman augments his discussion at Contention 64(c) by stating that his point with regard to fuel handling accidents is that "shipping spent fuel to Harris, and then to a permanent disposal repository site if one is found, involves handling the spent fuel twice more . . . than would just keeping it at its point of irradiation (Brunswick or Robinson or other)." June 28 Amendment at 8. While additional fuel handling increases the slim probability of a fuel handling accident, Mr. Eddleman fails to address the analysis in ER § 7.1.10 that the results of such an accident are inconsequential. Mr. Eddleman has not challenged this analysis or the safety analysis in the FSAR. Thus, there is no basis for a contention that a safety or environmental issue is involved in the additional spent fuel handling.

Mr. Eddleman next finds fault with the FSAR discussion of the spent fuel pools sources of make-up water and power for cooling pumps and make-up water pumps. June 28 Amendment at 8-9. First, he asserts that Applicants have not proven that the spent fuel pool is built in accordance with regulatory guides. The spent fuel pool has been designed in accordance with regulatory guides and is being constructed in accordance with that design. Applicants QA/QC program will ensure construction in accordance with design.

It is not true, as asserted by Mr. Eddleman, that if power fails, the fuel pool cooling pumps must be manually connected to an alternate power source. In the event of a loss of onsite power, the system will receive power automatically from the appropriate diesel generator. FSAR § 8.1.3. The redundant power supply for the fuel pool cooling pumps is set forth in Table 8.1.3-1 of the FSAR. The option is available to the operator in the control room of manually transferring the pumps to an emergency power source.

Mr. Eddleman asserts that no source or calculations are given for the heatup rate of the fuel pool. As indicated at Table 9.1.3-1 at note (1) of the FSAR, the heat loads were calculated using the procedures specified in NRC Branch Technical Position APCSB 9-1.

Mr. Eddleman suggests that most of the back-up systems for putting water into the spent fuel pools require either manual actuation or manual connection. First, the need for backup water in an emergency is unlikely. The probability of draining water from the cooling system of the fuel pools is exceedingly low. Even if the cooling system were drained, the fuel pools themselves would not be drained since the cooling connection enters near the top of the pool and the connection includes an siphon breaker. FSAR § 9.1.3.3. Normal makeup water is supplied by either of two Seismic Category I refueling water storage tanks through two separate and independent supply

systems. The back-up system utilizing a valved and flanged emergency connection is for use during construction and in the interim period when only one Unit is operationsl. Id.

Mr. Eddleman has not addressed the detailed information presented in the FSAR nor has he provided a basis for a contention regarding the adequacy of the spent fuel pool.

Mr. Eddleman also amends Contention 64 to propose storing Brunswick and Robinson spent fuel onsite for the life of those operating plants and removing it in one unit train at the end of plant life, referring to a study by a Dr. Marvin Resnikoff. June 28 Amendment at 9. Since the storage and transportation of spent fuel at Brunswick and Robinson are not at issue in this proceeding, as discussed in Applicant's Response to Eddleman at 68-70, this is not a cognizable issue before this Licensing Board. See also Applicant's Response to Eddleman at 77-9.

Contentions 19, 112, 113 and 114 (Steam Generators)

In the June 28 Amendment (at 10-16), Mr. Eddleman provides a detailed discussion of various steam generator problems encountered throughout the nuclear industry. In his discussion, he refers to the problems with Westinghouse Model D-4 steam generators at the KRSKO nuclear plant in Yugoslavia. In "Applicants' Response to Supplement to Petition to Intervene by Chapel Hill Anti-Nuclear Group Effort and Environmental Law Project," dated June 15, 1982 (at 54-56), Applicants discussed

the problems of the Westinghouse Model D-4 steam generators at the KRSKO Plant, and did not oppose the admission of a contention based on those problems. Furthermore, Mr. Eddleman refers to steam generators with corrosion problems which have operated only on AVT water chemistry and to NRC policy paper, SECY-82-72, on generic steam generator issues. Thus, Applicants believe that Mr. Eddleman has sufficiently stated a basis for a contention on steam generator design and operation. However, none of the four contentions on steam generators proposed by Mr. Eddleman clearly state an issue for litigation. Applicants therefore propose reformulation of Eddleman contentions 19, 112-114 in one Contention as follows:

Applicants have failed to demonstrate that the steam generators to be used in the Harris Plant are adequately designed and can be operated in a manner consistent with the public health and safety in light of (1) vibration problems which have developed in Westinghouse Model D-4 steam generators in the KRSKO Nuclear Plant (Yugoslavia); and (2) tube corrosion and cracking in other Westinghouse steam generators with Inconel-600 tubes and AVT water chemistry.

Contentions 41, 46-50, 92, 130 and 131 (Reactor Vessel Thermal Shock)

The first two amendments to reactor vessel thermal shock contentions deal with the material specifications for weld metal in the reactor vessel. June 28 Amendment at 16. Mr. Eddleman states that the FSAR does not establish the vanadium, phosphorous, or copper levels in the vessel weld metal. The material specifications for weld metal in Units 1 and 2 for

copper and phosphorus are set forth in FSAR § 5.3.1.1(a). Copper is limited to 0.10 percent and phosphorus is limited to 0.02 percent. The actual weld metal chemical composition by percentages are given in FSAR Tables 5.3.1-7 for Unit 1 and 5.3.1-10 for Unit 2. These Tables include the vanadium levels. The 0.30 percent copper level asserted by Mr. Eddleman is simply inaccurate.

Mr. Eddleman's discussion of Applicants' inservice inspection plan for the reactor vessel is also without merit. He baldly asserts that "a large area of the vessel comes under the ultrasonic exception." This is not true. Over 95% of the vessel will be inspected with ultrasonic equipment. Certain areas cannot be inspected because of geometry, but any exception must be approved by the NRC pursuant to ASME requirements. See FSAR § 5.2.4.3.

Mr. Eddleman tries to cast doubt on the efficacy of ultrasonic inspections by citing to two letters regarding the comparison of pre-service and inservice inspections. The import of these letters are distorted. While a maturity of the inspection techniques and improved criteria will necessarily provide more sophisticated data ten years after the pre-service inspection, that is not to suggest that a valid comparison cannot be made. Mr. Eddleman has not here raised an issue in controversy.

Finally, FSAR § 1.8 (at pages 1.8-187, 188) provides a point by point discussion of how the Harris Plant will comply with Regulatory Guide 1.150. This section was added in Amendment 3 to the FSAR.

Mr. Eddleman does not provide the basis for a contention regarding the issue of reactor vessel inspection.

Contentions 116 and 128 (Fire Protection/Hydrogen Control)

Mr. Eddleman's discussion on fire protection is confusing. June 28 Amendment at 22. It is simply unclear what he is alleging in this Contention as he would amend it. We submit that Mr. Eddleman has failed to identify a specific deficiency in the level of protection afforded the Plant computer and/or controls and instrumentation for safety related equipment and plant shutdown. Further, he has failed to provide any basis with the requisite specificity for a Contention in the fire protection area. As stated in Applicant's Response to Eddleman at 143-52, Applicants intend to conform with the provisions of 10 C.F.R. § 50.48 and Appendix R with respect to its fire protection system.

As noted in Applicants' Response to Eddleman at 138 the Harris Plant has redundant electric hydrogen recombiners (see FSAR § 6.2.5.2 and TMI App. at 27) and a backup hydrogen purge system (see FSAR § 6.2.5.5). Applicants have already discussed the question of redundant power for safe plant shutdown. See

Applicants' Response to Eddleman at 138-139; FSAR

§ 8.3.1.1.1.5. Mr. Eddleman has not provided additional information sufficient to support a Contention in either the fire protection or hydrogen control areas.

Contention 132 (Control Room Design/Reactor Vessel Level Indication)

Mr. Eddleman amends his generalized Contention on control room design by presenting specific information on reactor vessel level instrumentation. As discussed in "Applicants' Response to Supplement to Petition to Intervene by Chapel Hill Anti-Nuclear Group Effort and Environmental Law Project" (at 61), Applicants do not object to a Contention on reactor vessel water level indication. Applicants proposed reformulation of Contention 132 to read as follows:

Applicants have failed to provide the design for a direct water level indicator for the reactor vessel.

Contention 81 (Emergency Planning)

Mr. Eddleman asserts that the description of the test of the emergency plan in FSAR § 13.3.8.1.5 is inadequate. June 28 Amendment at 23. The emergency plan to be issued by Applicants will describe the test of the emergency plan in considerable detail. Applicant suggests that Mr. Eddleman defer stating a contention regarding the adequacy of emergency plan tests until the draft emergency plan has been promulgated. As stated in Applicants' Response to Eddleman at 154, Applicants recognize that the issuance of the draft emergency plan will constitute

good cause for the filing of new contentions. The appropriate course, then, is for Mr. Eddleman to review the emergency plan when issued, including the description of the tests, and then submit specific contentions, if any, with respect to any deficiencies he has identified in the newly-available information in the emergency plans.

Contention 127 (Site Supervisory Personnel)

Mr. Eddleman has amended Contention 127X (which was apparently copied from contentions submitted in the Catawba proceeding) to delete the reference to Catawba personnel and substitute instead Harris Plant personnel. In Applicants' Response to Eddleman at 185, Applicants assumed that Mr. Eddleman meant to refer to Harris personnel in responding to the Contention. Mr. Eddleman continues to fail to provide any basis for proposed Contention 127X.

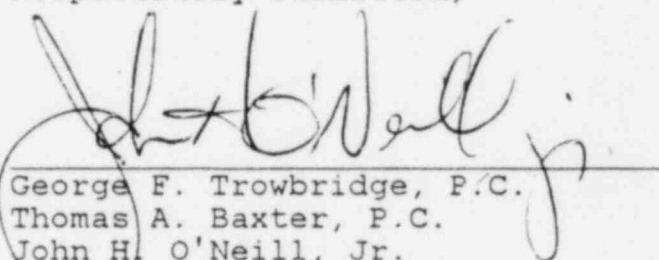
Contention 41 (QA Program)

FSAR § 17.2 describes in some detail the quality assurance (QA) Program that will be established for the operation of the Harris Plant. Mr. Eddleman characterizes this description as a "cartoon". June 28 Amendment at 23. He does not specify any inadequacy in the QA program as stated. Rather, he complains that the program is not described in minute detail. The QA program will be subject to continuing audit both by the Company and the NRC's Office of Inspection and Enforcement. Mr. Eddleman has not provided in this amendment any basis for an

allegation that the QA program, as audited both by the Company and the NRC, will not ensure quality control of operations at the Harris Plant. The detail that he would request at this time is unreasonable and unnecessary. Thus, Mr. Eddleman's proposed amendment fails to rehabilitate Contention 41 to be acceptable for litigation in the operating license proceeding.

Thus, Applicants would not object to the admission of the proposed reformulated Contention on steam generators and reformulated Contention on reactor vessel level indication as discussed above. The amendments to the other Contentions, in Applicants' view, have failed to meet the objections previously stated by Applicants and to present litigable issues for this proceeding.

Respectfully submitted,



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Dated: July 13, 1982

July 13, 1982

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response To Amendments (Second Set) To Contentions of Petitioner Wells Eddleman" were served this 13th day of July, 1982, U.S. mail, first class, or by hand service to those parties attending the prehearing conference.

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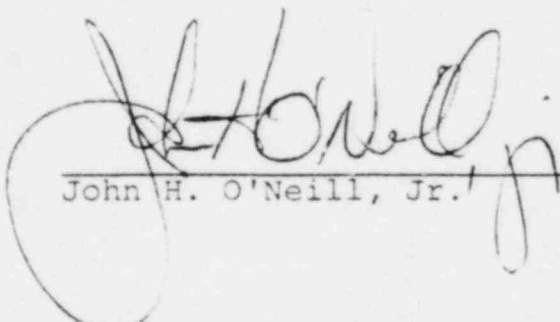
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