

March 25, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

APPLICANTS' RESPONSE TO MEMORANDUM AND ORDER
(Reflecting Decisions Made Following
Second Prehearing Conference)

On March 10, 1983, following a prehearing conference on February 24, 1983, the Board issued a Memorandum and Order setting a schedule for the remainder of the adjudicatory proceedings on the Shearon Harris Nuclear Power Plant operating license application. Memorandum and Order (Reflecting Decisions Made Following Second Prehearing Conference) (hereinafter cited as "March 10 Order").

In its order the Board stated that it had received Applicants' Revised Proposed Schedule subsequent to reaching a decision on the scheduling issues but would treat any differences between that proposed schedule and the Board schedule as objections to the Board order. March 10 Order at 5. Applicants wish to clarify that the Revised Proposed Schedule was merely intended to memorialize the changes made in Applicants' previous proposal after the interested parties reached oral agreements on some issues at the prehearing conference. After reviewing the March 10 Order, Applicants do not

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intend to object to the dates set forth in the Board's schedule. Therefore, any discrepancies between the Board order and the Revised Proposed Schedule should not be preserved as objections. Applicants do observe, however, that any significant slippage in the Board's schedule would jeopardize the projected fuel loading date.

Applicants request clarification of footnote 3 of the March 10 Order. That footnote states that Eddleman Contention 41 will be treated as a management capability issue. Applicants do not agree that Eddleman 41 as admitted, which deals solely with the narrow issue of hanger weld safety, should be classified as a management capability issue. Eddleman 41 deals with a single aspect of the construction QA/QC program. It bears no more relationship to the ability of Carolina Power and Light management to operate the Harris plant safely than do the many other safety and environmental contentions that involve monitoring or inspections by company personnel.

Applicants further object to this classification insofar as the Board order implies that discovery on Eddleman 41 may be deferred until after the completion of the environmental hearing. In the apparent belief that the March 10 Order did not toll discovery on Eddleman 41, on March 22, 1983, Mr. Eddleman propounded numerous interrogatories to Applicants on that contention. Mr. Eddleman also has responded (on March 21, 1983) to Applicants' interrogatories on Eddleman 41 served prior to the March 10 Order. Applicants believe that discovery should proceed at this time

because the facts surrounding the contention are discernible now, and the contention is ripe for summary disposition. Immediate discovery would be in accord with the Board's intent that only those safety contentions not subject to summary disposition be deferred until the completion of the environmental hearings. March 10 Order at 4.

Finally, Applicants wish to respond to Mr. Eddleman's "Notes re Applicants' Revised Proposed Schedule," dated March 10, 1983. In the handwritten notation at the margin of the paper filed with the Board, Mr. Eddleman states that the overlap in security plan hearings and environmental hearings may cause problems for the intervenors. As Applicants stated in the February 24 conference, Mr. Eddleman's fear is totally unfounded. (Tr. 526).

It is Applicants' understanding that the physical security plan schedule is completely independent of the timetable for hearings on environmental, safety and emergency preparedness issues. The security plan hearing will be limited to those parties with access to the plan. The participants in the physical security plan hearings (for intervenors, counsel and their expert(s)) will not be needed at the environmental issues proceedings. Intervenors have retained Ms. Greenblatt as counsel for the physical security plan hearings. Thus, intervenors' representatives on environmental issues will not be subject to conflicting demands. Under these circumstances neither the discovery procedures nor the hearings

on security plan contentions should toll or be tolled by hearings
on other contentions.

Respectfully submitted,

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Dated: March 25, 1983

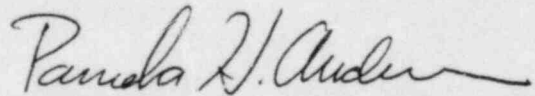
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response To Memorandum And Order (Reflecting Decisions Made Following Second Prehearing Conference)" were served this 25th day of March, 1983, by deposit in the U.S. mail, first class, postage prepaid, to the parties on the attached Service List.



Pamela H. Anderson

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Docket Nos. 50-400 OL
50-401 OL

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