

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

June 30, 1983

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Glenn O. Bright
Dr. James H. Carpenter
James L. Kelley, Chairman



In the Matter of

CAROLINA POWER AND LIGHT CO. et al.
(Shearon Harris Nuclear Power Plant,
Units 1 and 2)

Dockets 50-400 OL
50-401 OL

ASLBP No. 82-468-01
OL

PETITION UNDER 10 CFR 2.758
RE ALTERNATIVES AND NEED FOR POWER RULE

On March 26, 1982, the NRC adopted its final rule on "Need for Power and Alternative Energy Issues in Operating License Proceedings," (47 FR 12940-43), barring consideration of whether a nuclear plant's power is needed or whether alternatives are environmentally and/or economically superior to it, at the operating license stage.

The announced purpose of the rule (see 46 FR 39440 ff) is "to avoid unnecessary litigation at the operating license stage". In the final rule, the Commission said "An exception to the rule would be made if, in a particular case, special circumstances are shown in accordance with 10 CFR 2.758 of the Commission's regulations." (47 FR 12940). As an example (47 FR 12941), the Commission says " * * * special circumstances could exist if for example, it could be shown that . . . an environmentally and economically superior alternative existed."

The attached affidavits set forth an environmentally and economically superior alternative to the Harris plants, which gains

8307060383 830630
PDR ADOCK 05000400
PDR
G

2503


credibility from CP&L's 1981 cancellation of Harris 3 and 4 in favor of conservation, load management and alternative energy sources.

Given the existence of an environmentally and economically superior alternative (as described prima facie in the attached affidavits), litigation of the need for power and alternatives issues are necessary for the Harris operating license. The Commission, by using the words "An exception to or waiver of the rule will be permitted in particular cases if special circumstances are shown in accordance with 10 CFR 2.758" (48 FR 12942), (emphasis added), and "An exception to the rule would be made if, in a particular case, special circumstances are shown in accordance with 10 CFR 2.758 of the Commission's regulations", provides that such a waiver must be made where such an alternative exists. The existence of the environmentally and economically superior alternative makes litigation necessary at the operating license stage in this particular case.

Therefore, I respectfully request that the "Need for Power and Alternative Energy Issues in Operating License Proceedings" rule (47 FR 12940-43) be waived in this proceeding, and that evidence be taken on Eddleman contentions 59,60,15 (and all its additional versions, 15A thru 15 S, 15X, and 15Y), or on the contention: 15 T: Applicants and Staff have not shown that the completion of Harris2 and operation of the Harris plants are environmentally and economically superior to the alternatives described in the affidavits supporting intervenor Eddleman's 2.758 petition of 6/30/83. BASIS: Those cited affidavits."

Respectfully submitted,

This 30th day of June, 1983


Wells Eddleman