

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

APR 26 10:17
April 20, 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-L68-01
OL

Wells Eddleman's Response to Board Questions re
Need for Power Rule, Eddleman 15's, and
CH_ANGE 79 c

Pursuant to the Board's Memorandum and Order of 3-25-83,
Wells Eddleman responds to the four questions (pp 2-3) in it, as follows:

1. I do not believe so, since coal is not an "alternative energy source for the proposed plant" under 10 CFR 51.53(c). To my knowledge, the conversion of Harris to a coal-fired plant has not been raised in this proceeding. The comparison here is between operating the CP&L power system without Harris operable, and with Harris operable under some assumptions. That seems an appropriate question, and without an answer to it, I doubt that sufficient benefits for Harris can be shown to exceed its admitted costs in operation.

If, however, coal is considered an "alternative energy source" under 10 CFR 51.53(c), then contentions concerning the cost advantage (if any) of nuclear operation compared to burning coal at other plants would be barred by that rule (51.53(c)) in my view. This would not apply to questions about (or dependent on) a load forecast, in my view, as long as the contention itself does not concern need for power or alternative energy sources for the proposed plant.

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At the February 24, 1983, special prehearing conference, Judge Kelley indicated he would be unavailable during the time set in the present schedule for the environmental issue hearings. I cannot determine the extent to which the availability of each, or any, members of the present ASLB in this case might be enhanced by a rescheduling of parts of the hearing within the additional 6 months time Prasad Kadambi's above-referenced summary (3-24-83) appears to allow. I am not certain that a motion is in order at this point concerning the schedule, since the Staff's position that plus or minus 6 months on the construction schedule would not lead them to formally dispute Applicants' fuel load date, is already on the record in the 2-24-83 conference.

I am raising this point because, the more I think about the idea of different panels hearing different parts of this proceeding, the more I think that possibility should be avoided, if possible. There is one ultimate issue here: whether in the light of all the available evidence, CP&L et al should or should not be granted a license to operate the Harris nuclear plants (and store spent fuel there from other plants). While I am not familiar with the ins and outs of how a multiple set of panels might decide this issue, and how the members of such panels might communicate their knowledge and findings to other panels, it seems to me, straightforwardly, that direct knowledge is preferable where it is possible. I foresee possible prejudice to my case if, for example, Applicants in one hearing object to consideration of information or exhibits brought out in another (I have seen CP&L object to introducing its own filings with the NCUtilities Commission into evidence before that same Commission, when an intervenor sought to do so). The use of multiple panels might also raise the difficulty of intervenors having to try to bring out the relevance of facts found in other phases of the

It may well be that a reviewing Court would find Commission rule 51.53(c) inconsistent with NEPA and Calvert Cliffs, and I would hope to get that issue before a court eventually. But the question here must first be decided within the NRC framework.

3. I don't know why the Staff included cost savings as a "large" benefit in its FES (Final Environmental Statement) on Catawba, NUREG-0921. But this position is inconsistent with the position that these issues cannot be raised at the OL stage. If the staff includes an alleged cost or benefit, the appropriateness of including such as a cost or benefit, and the amount of such cost or benefit, may clearly be contested.

It is worth noting that the Staff has stated that power is the only important benefit of the Harris plant. If financial considerations are indeed barred by 51.53(c), then the question becomes the environmental benefits, vs. costs (all costs) of generating a given amount of electricity from nuclear as opposed to other sources (e.g. a mix of hydro, coal, oil and other), given that the costs of the nuclear plant (e.g. Harris) are sunk and may not be considered.

4. I don't know the status of NUREG-0919. If it is intended to guide Applicants, one would hope it would have been made official in the eleven months that have passed since it was issued. If it is not official, Applicants are clearly not bound by it, but may choose to follow it. The Staff, of course, is not required to adopt or modify or exclude Applicants' assertions in their Environmental Report in their DEIS.

20 April 1983


Wells Eddleman

April 15, 1983

Re: NRC Dockets 50-400/401 O.L.

John O'Neill
Shaw, Pittman, Potts & Trowbridge
1800 M ST NW
Washington DC 20036

Dear John O'Neill,

I have reviewed the folder of documents (handwritten notes) re the contentions (referenced in response to Applicants' 1st set of interrogatories, sent 3/21/83) per our agreement of 4/8/83, and they are all legal theories, thought processes, etc. in anticipation of trial.

Enclosed also are whited-out copies of two documents, one related to Eddleman 29 (letter from B. Molholt, Ph.D.) and one related to Eddleman 45 (water hammer). As we discussed on the 8th, I have deleted the names of certain non-expert and nonwitness expert persons from these copies (retaining the originals unmarked). I am transmitting these to you per our agreement that you will review them and be back in touch with me if you have anything to dispute about re these 2 documents (each is one page only).

I have not yet reviewed the other matters and questions we went over on the 8th nor prepared answers for them, since it's tax time and I've been busy with that and the radiation interrogatories you asked me to give priority to due to Ms. Bauser's pregnancy.

Wells Eddleman
Wells Eddleman

cc: Chas. Barth
Judge Kelley

All other parties will receive a copy of this (w/o enclosures) in my next mailing to them.