UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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. 82-468-01 OL

W.E. Notes re Schedule and Capacity Factor Info

Concerning the schedule, I've received a 3-24-83 summary of NRC's Caseload Forecast Panel meetings with CP&L in February 1983, which states (p.3) "the estimated completion date determined by the CFP is December 1985." vs. Applicants' June 1985. The CFP reviewed "completion of such items as large and small bore pipe, pipe hangers, and electrical work" from Applicants' info and on-site observations. This suggests that slippage of up to 6 months in the hearing schedule would not prevent completion of hearings before fuel loading.

I raise this point because I believe it would be highly desirable for the same persons to hear the entire evidence in this proceeding, if at all possible. If the same fact-finders actually hear all the evidence, I believe their ability to coherently decide the case as a whole will be enhanced, by direct knowledge of all the matters at issue, by knowing the "demeanor evidence" of all witnesses, etc., compared to what would be available to different panels of fact-finders hearing different phases or parts of this case.

I intend to address these latter issues in a 2.758 petition and affidavits by 6-30-83, specifically re need for power and alternatives.

2. I believe the answer to question 1 above is No. But if it were considered to be Yes, then (a) the Staff cannot include any operating cost savings compared to alternate fuels -- or their associated O&M and other costs which depend on type of fuel or vary from nuclear to other fuels -- in its cost-benefit analysis, since every cost and benefit is litigable under NEPA and Calvert Cliffs and the NRC regulations 10 CFR 51.52(b) and 51.26(d) as cited by the Board 3/25.

(b) If the Staff does include such benefits, I believe the choices would be (1) to waive the rule of 51.53(c); (2) to exclude those benefits from consideration, as a matter of law; or (3) to certify or otherwise appropriately bring the question before the Appeal Board as promptly as possible. I favor options 1, then 2; but option 3 may be necessary since this is an important issue likely to arise in all other operating license cases under 51.53(c) and it would clearly delay the proceedings significantly if these issues had to be re-litigated later.

With respect to option 3, 51.26(d) requires that the EIS be evidence and 51.52(b)(1) requires it to be supported as evidence by the staff and allows any party to take a position on it. It is clear that nothing can be litigated in these hearings except contentions and issues raised sua sponte by the Board. The only way for an intervenor to take a position is thus to raise a contention (unless the intervenor agrees with the DEIS in which case the intervenor need do nothing). Calvert Cliffs, however, requires a full opportunity at each stage of major federal action (e.g. issuing an operating license) to litigate NEPA issues, and the cost-benefit is clearly a central NEPA issue under that decision and in this case.

proceeding, which is a dilemma of perhaps taking more time than would be required for hearing the same matters before a panel that had actually seen the other phases of the case, versus not being abixe to make connections needed to prove a point. There may well be other complexities of hearing the case before multiple panels that I, a non-lawyer, am not aware of and have not analyzed yet.

I think the best course of action at this point would be to explore the extent to which hearing the case before the same board in all phases is (a) possible or more possible if the later completion of Harris projected by NRC's CPP is correct, and (b) how desirable it is to do so.

NOTES re CAPACITY FACTOR :

The following facts have recently come to my attention; since they are relevant to Eddleman contention 15 and its 2-11-83 "offspring", I bring them to your attention, please:

In a 3-24-83 letter from G.W. Knighton, NRC's Chief of Licensing Branch #3, to CP&L, the power distribution peaking factor, F_Q, is stated to be 'inadequately justified for the FSAR chapter 15 LOCA (loss of coolant accident) analysis. Knighton states (p.2) "The only conclusion that one can draw from this information, as it stands, is that it will be necessary to derate the reactor to 91 percent power". As shown by the experience of McGuire 1, Ringhals 3, Krsko, et al, such deratings have the effect of decreasing capacity factor.

According to Worldwide Nuclear Power (USDOE, January 1982), p.7, Ringhals 3 had a capacity factor of 39.6 percent for the year ending October 1981. Ringhals 3 has a Westinghouse model D steam generator, as do Harris 1 and 2, McGuire 1 and 2, V.C. Summer #1, Catawba 1 and 2, and numbers of other Westinghouse PWRs. I understand the Swedes have ordered fullscale tests of the Westinghouse "fix" for the problems with Westinghouse model D steam generators. Wells Eddleman

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Shearon Harris Nuclear Power Plant, Units 1 and 2) and 50401 O.L.

CERTIFICATEOF SERVICE

I hereby certify that copies of W.E. Notes re Schedule and Capacity Factor Info, and of Wells Eddleman's Response to Board Questions re Need for Power Rule, ~~and copies of WE 4-15 letter to John O'Neill~~ of Applicants HAVE been served this 20 day of April 1983, by deposit in the US Mail, first-class postage prepaid, upon all parties whose names are listed below, except those whose names are marked with an asterisk, for whom service was accomplished by ~~O'Neill letter~~ was mailed direct, with enclosures, to him, Judge Kelley and NRC Staff Counsel Barth on 4-15-83. Other items mailed 4-22 to parties not approved to receive Kelley mailing.

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