

UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION

April 29, 1983

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SERIAL

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

OFFICE OF THE
GENERAL COUNSEL
NRC
BRANCH

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

CERTIFICATE OF NEGOTIATIONS
 by Wells Eddleman

1. Applicants and I agreed April 8, 1983 that I would not be required to list all species living in the Cape Fear, the ocean near its point of discharge, and all species eating such species. The answer "all of them" is sufficient. (Apps' 1st set Interrogatories re Eddleman 83/84).

2. We reached essentially the same impasse over objection by me to General Interrogatory 2 as we had on the phone. O'Neill stated the Susquehanna case held my position wrong, but when I asked for a cite he could not give one, and he did not have a copy of it (nor did he produce one after our lunch break, though I understand CP&L's law library includes a complete set of NRC issuances). I asked O'Neill and Hill Carrow (CP&L's negotiators) to look at the recent order in issued 3-24-83, docket 50-443, ASLBP # 82-471-02 O.L.) Seabrook (slip of, 3-25-83)/on a similar objection. Neither expressed any willingness to do so. I remarked that they didn't seem to have any interest in even hearing the basis of my objection, or arguments for it. There was no response to this. We did agree that a central point of my objection is that industry groups (nuclear) may well seek to intimidate or harm persons who supply information to me. I stated

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that there are persons who have refused to provide information to me given that I cannot guarantee their names will not be used. I have also spoken to a number of persons employed by nuclear firms who were absolutely unwilling to have their names revealed due to "adverse reaction by my employer" as one put it.

Other bases of my objection, e.g. the availability of expertise to Applicants on the subjects involved, without access to any persons who may have supplied information to me, were evidently of no interest to Applicants' attorneys. However, I must note that O'Neill repeatedly stated in discussion of other matters on April 8 that "we can hire the whole world," "you should assume we can hire any experts we need",

"we can hire the world", etc. I take these as emphatic statements that Applicants have no lack of expertise available to them, upon terms they find reasonable, in any of the subject areas involved in this proceeding, or at least that that is their opinion. O'Neill also stated that Applicants were prepared to litigate every one of the contentions (of mine) at issue, if necessary, and had set up a schedule to do so, and were prepared to hire experts for each in support of summary disposition (by affidavit) for numerous contentions of mine. (I have here strung together several things he said at different times, but the basic facts are, I think, clearly unchanged above.) It is clear that Applicants do not perceive a lack of expertise available to them on the subject matter of each and every one of my contentions.

Applicants' only stated interest in having the names of persons providing information to me, that I recall, was for possible depositions of these persons. I pointed out that even having one's name revealed in this proceeding can (and has) expose(d) persons to industry intimidation regardless of whether Applicants themselves might act or seek to act to intimidate such person(s).

3. The matter of the names in the Molholt letter (Response to Applicants' second set of interrogs, p. 5) is still under negotiation. On 4-15-83 I supplied O'Neill with a copy of this item, and of one relating to Eddleman 45 (Water Hammer) that postdates 3-21-83, both with names whited out. I retain originals of both with the names. O'Neill is to get back in touch with me re this.

4. We agreed on 4-8 that handwritten notes of mine which are not work product, are discoverable. I have reviewed the folder mentioned in my response to Applicants' first set of interrogatories, and advised O'Neill 4-15-83 that it is all work product or in the contentions. I have also set handwritten notes (the item relating to Eddleman 45 cited in 3 above) to him. I have not completed a further review of handwritten notes (margins of documents and otherwise) yet because I agreed to give priority in my work responding to Applicants, to the radiation interrogatories (second set to W.E. and second set to Joint Intervenors). This was at Applicants' request, because (they stated) their attorney Bauser is pregnant and they wish to finish their summary disposition under her direction before she has to leave work.

5. Applicants and I have agreed that we will provide to each other copies of cross-examination documents to be used by each of us for other parties' witnesses. This agreement is not a conclusion of law, but a voluntary agreement (at my request).

6. Applicants and I have agreed on various extensions of time for answering each other's interrogatories (my first set to them and their second set to me) typically 2 weeks to one month for each of us. We continue to negotiate extensions thereof informally, e.g. mine to 4-22 from 4-20 for this response set to be typed and mailed. Applicants' attorney Baxter is to contact me further re response times for the Eddleman contentions he is handling (41, part of 45, 65).(my interrogs).

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Dockets 50-400
and 504401 O.L.

CERTIFICATE OF SERVICE

I hereby certify that copies of Certificate of Negotiations, and of
Wells Eddleman's Response, NO 16

To Applicants Interrogatories (2d Set) (including Eddleman 29 & 37B
And of W.E. Interrogatories to Applicants, 2d set,
HAVE been served this 29th day of April 1983, by deposit in
DOCKETING BRANCH

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 _____

Judge James Kelley
Atomic Safety and Licensing Board
US Nuclear Regulatory Commission
Washington DC 20555

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