

August 18, 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'83 AUG 22 A10:44

In the Matter of )

CAROLINA POWER & LIGHT COMPANY )  
and NORTH CAROLINA EASTERN )  
MUNICIPAL POWER AGENCY )

(Shearon Harris Nuclear Power )  
Plant, Units 1 & 2) )

OFFICE OF SECRETARY  
DOCKETING & RECORDS  
BRANCH  
DOCKET NOS. 50-400 OL  
50-401 OL

APPLICANTS' MOTION TO MODIFY THE SCHEDULE  
FOR FILING MOTIONS FOR SUMMARY DISPOSITION  
ON ENVIRONMENTAL CONTENTIONS

In its Memorandum and Order (Reflecting Decisions Made Following Second Prehearing Conference), March 10, 1983, the Atomic Safety and Licensing Board set September 1, 1983, as the last day for filing motions for summary disposition on environmental contentions.<sup>1/</sup> Applicants Carolina Power & Light Company and North Carolina Eastern Municipal Power Agency hereby move the Board to issue an order modifying the schedule to establish the following deadlines for motions for summary disposition on environmental contentions:

September 15, 1983: Wilson I(b), I(d), I(e) and I(g)

September 19, 1983: Joint Contention II  
Eddleman 29/30 and 37B

The September 1, 1983 schedule would remain in effect for the environmental contentions not in the above list.<sup>2/</sup> Responses would be filed pursuant to the provisions of 10 C.F.R. §2.749(a).

1/ The environmental contentions are identified in the Memorandum and Order.

2/ This excludes, of course, any of the pending proposed environmental contentions by intervenor Eddleman which the Board may yet admit for adjudication.

8308230185 830818  
PDR ADOCK 05000400  
G PDR

DS03

The grounds for this motion, as it applies to the above-listed contentions of Dr. Wilson, are that Applicants and Dr. Wilson are engaged in informal discussions on the concerns reflected in these contentions, that Dr. Wilson may withdraw these contentions if his concerns are satisfied as a result of these discussions, that the filing of summary disposition motions on September 1 would be disruptive of the discussions and might well prove to be wasteful and unwarranted because of the withdrawal of all or some of the contentions.<sup>3/</sup> Dr. Wilson supports this motion.

The grounds for this motion, with respect to the Joint and Eddleman contentions listed above, are that discovery has been delayed beyond the dates established in Board's schedule, i.e., July 29, 1983 for the filing of final responses to discovery. In the case of Mr. Eddleman's contentions, the extensions of the discovery schedule have been by mutual agreement of the parties.<sup>4/</sup> In the case of Joint Contention II, see Applicants' Motion to Compel Discovery of Joint Intervenors, August 11, 1983.

While Applicants regret having to seek even a modest delay in the schedule for some of the environmental contentions, the information sought in the outstanding discovery requests is essential to the preparation of motions for summary dispositions and, having proceeded further in our hearing preparation efforts, Applicants now conclude

---

<sup>3/</sup> Dr. Wilson already has agreed to withdraw his Contentions I(a), I(c), I(f) and IVC as a result of discussions with Applicants.

<sup>4/</sup> Final responses are due on August 19, 1983.

that there will not be sufficient time between the filing of Mr. Eddleman's responses on August 19 and the submission of motions for summary disposition by September 1.<sup>5/</sup> Further, since not all environmental contentions are the subject of this motion, the overall hearing schedule is not necessarily endangered by the extension sought.

The undersigned has discussed this motion with Mr. Eddleman and with Staff Counsel Barth, both of whom do not oppose the motion. We assume from Mr. Payne's previous correspondence of August 5, 1983, that Joint Intervenors do not oppose the extension requested.

*Thomas A. Baxter*  
\_\_\_\_\_  
Thomas A. Baxter, P.C.  
SHAW, PITTMAN, POTTS & TROWBRIDGE  
1800 M Street, N.W.  
Washington, D.C. 20036  
(202) 822-1090

Richard E. Jones  
Samantha Francis Flynn  
CAROLINA POWER & LIGHT COMPANY  
P. O. Box 1551  
Raleigh, North Carolina 27602

Counsel for Applicants

Dated: August 18, 1983

---

<sup>5/</sup> It is unclear, at this point, if and when Joint Intervenors will respond to Applicants' outstanding discovery requests of June 30, 1983.

August 18, 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
CAROLINA POWER & LIGHT COMPANY	)	DOCKET NOS. 50-400 OL
and NORTH CAROLINA EASTERN MUNICIPAL	)	50-401 OL
POWER AGENCY	)	
	)	
(Shearon Harris Nuclear Power Plant,	)	
Units 1 & 2)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Motion To Modify The Schedule For Filing Motions For Summary Disposition On Environmental Contentions" were served this 18th day of August, 1983 by deposit in the United States mail, first class, postage prepaid, to the parties on the attached Service List.

  
\_\_\_\_\_  
Thomas A. Baxter, P.C.

Dated: August 18, 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

CAROLINA POWER & LIGHT COMPANY )  
and NORTH CAROLINA EASTERN )  
MUNICIPAL POWER AGENCY )

(Shearon Harris Nuclear Power )  
Plant, Units 1 and 2) )

Docket Nos. 50-400 OL  
50-401 OL

SERVICE LIST

James L. Kelley, Esquire  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. Glenn O. Bright  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. James H. Carpenter  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Charles A. Barth, Esquire (4)  
Myron Karman, Esquire  
Office of Executive Legal Director  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Docketing and Service Section (3)  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. Daniel F. Read, President  
CHANGE/ELP  
5707 Waycross Street  
Raleigh, North Carolina 27606

John D. Runkle, Esquire  
Conservation Council of North Carolina  
307 Granville Road  
Chapel Hill, North Carolina 27514

M. Travis Payne, Esquire  
Edelstein and Payne  
Post Office Box 12607  
Raleigh, North Carolina 27605

Dr. Richard D. Wilson  
729 Hunter Street  
Apex, North Carolina 27502

Mr. Wells Eddleman  
718-A Iredell Street  
Durham, North Carolina 27705

Richard E. Jones, Esquire  
Vice President and Senior Counsel  
Carolina Power & Light Company  
Post Office Box 1551  
Raleigh, North Carolina 27602

Dr. Phyllis Lotchin  
108 Bridle Run  
Chapel Hill, North Carolina 27514

Dr. Linda Little  
Governor's Waste Management Board  
513 Albemarle Building  
325 North Salisbury Street  
Raleigh, North Carolina 27611

Service List  
Page Two

Bradley W. Jones, Esquire  
U.S. Nuclear Regulatory Commission  
Region II  
101 Marrietta Street  
Atlanta, Georgia 30303

Ruthanne G. Miller, Esquire  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Karen E. Long, Esquire  
Public Staff - NCUC  
Post Office Box 991  
Raleigh, North Carolina 27602