UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

August 19, 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

Motion to Compel Discovery re 2d round Interrogatories on Eddleman 64f, 67 and 80

Following the breakdown of negotiations on the answers and objections Applicants made to interrogatories on these contentions (answer, 7-29-83), on August 8, 1983, Applicants' attorney Baxter agreed not to oppose this filing being made on August 19 (one day late) so it can be mailed with other filings due the 19th. See certificate of negotiations, attached.

My arguments filed 8/8 re general interrogatories G8 and G9 also apply to the impasse reached re those interrogatories in this set. I incorporate them by reference as if fully set out at this point. Applicants' attorney Baxter advises me I don't need his permission to do this, but he has no objection to such incorporation by reference in this Motion. (7-29 response covers G8 and G9 at pp 7-8)

Concerning 64-10(c) and (d) (7-29 response of Applicants, p.8). The question (c) is relevant: The contention is about (inter alia) overheating the valve in a fire, and the hypothetical of loss of valve box integrity is a reasonable question about this.

I am not aware of any requirement to lay a foundation for a hypothetical question. But if one is needed, Applicants' dubious assumption (see CSAR, end-drop analysis, that all the fins line up perfectly straight (end-on) to the ground and hit the ground at the exact same time, is a urely silly one because there would almost always be some horizontal component of cask motion before a fall, either through horizontal motion, or because the fall began by the cask rolling. In either case, the perfect lineup assumed is unlikely and the crush force against the valve box would not be distributed so that Applicants' analysis of its absorption is valid. Furthermore, the perfectly plastic collision assumption used throughout the CSAR valve-box impact analyses (sections 5.5.4, 5.6.2,5.7.2) is invalid. Stainless steel is quite springy and would in practice have multiple impacts with bending and shearing going on during them. Thus the fins won't have the effective strenth assumed in the impact studies.

Finally, the valve is still there on the cask, so the question should be answered. Applicants' "intent" does not change the facts.

(d) depends on response to (c). By phrasing an "answer" to (c) as an objection, Applicants seek to avoid stating the detailed basis for an answer re heating of the valve, as inquired about in (c). They should not be permitted to do this. Given that (c) should be answered, then any non-affirmative answer requires an answer to (d) also.

Objections to 64-12(a) (which avoids answer to 64-12(b) by the same device noted above), and all parts of 64-13 (response at 9-10): This is the same argument covered in the 8/8 motion to compel. Applicants say their intent to remove the valve means they don't have to answer questions about the valve. I say the valve is there and it is clearly relevant to the contention, so they should answer. All these parts clearly relate to the valve and the contention.

p.14
Applicants' response to 67-5(d)(iii)(cc-e) appears to be deficient. The periodic table does not give mass numbers for all isotopes, just for the element, generally. This question is about radio-isotopes. Through oversight, this was not discussed with Applicants 8-8. I contacted Attorney Baxter's office by phone on 8-12; he was out. He called back promptly after lunch and said that Applicants would not supplement the answer as they do not feel that the information is uniquely in their possession or not available to me. I think if they know the answer, they should give it, or a reference. Applicants' attorney O'Neill and I are trying to resolve 67-5-d-jj thru oo informally. That will continue

P15
Re 67-5-(e) thru (k) Applicants object to answering first because they distinguish a low-level radioactive waste disposal "site" from a "landfill". I know of no LLRW disposal sites that are used in the US that are not landfills. EPA regulations ban ocean disposal and a contention on this possibility (by me) was rejected as speculative.

If a landfill leaks, it may be shut down. This has happened to LLRW landfills at Maxey Flats, KY and Sheffield IL. Leaks are one reason the West Valley NY LLRW landfill is staying shut down so far. Obviously, if the disposal site for Harris LLRW is a landfill (the only option now being used in the US), anything that can cause the landfill to be closed (e.g. leaks, violations at it) affects the availability of an "assured disposal site" for Harris LLRW.

Applicants may not rely on NRC regulations to avoid answering questions. If their answers include parts of 10 CFR 61, they should say so in their answers. 10 CFR 61.41 sets criteria such that leaks could force the closing of a landfill facility.

Re 67-5(n) thru (r) (p.16) Applicants object that transport is irrelevant. But, as noted in 8/8 motion to compel, violations by CP&L or others in transport of waste to an LLRW site could result in CP&L's being denied disposal rights at that site. It has happened to other utilities, e.g. GPU re Hanford site. Just last week (of Aug 8) a utility was suspended at Barnwell when its wastes caught fire.
Thus, these questions can lead to admissible evidence re the assurance of CP&L having an LLRW disposal site for Harris wastes.

re 80-5(a) (7-29 response at 20) I agree that it would be unduly burdensome to have Applicants' experts try to separate out all the facts they know that came from each of these documents. However, specific answers to parts (i) through (iv) of (a) are needed for me to evaluate Applicants' answers to questions re Eddleman 80, and for expert analysis of these answers by others if I can get experts to put the time into it. Applicants stand on their objection. I think they should be compelled to answer, at minimum in the form of the answer to 80-5(b) that they gave, the parts of 80-5(a). The information is certainly relevant, and I need to know what facts Applicants are using in making their answers. It is well established that an answer that "the information you seek is somewhere in this (mass of documents)" is not satisfactory. Applicants must know what facts they relied on. I need to know that too.

Re 80-7 (pp 20-21 of response): Applicants should be required to answer 80-7 part by part. The answer given is not responsive to some parts (e.g. it doesn't say how the validation is judged acceptable, (part(c)), or the reasons this way of validating a model is (i) accurate and (ii) applicable (parts (i) and (ii) of 80-7(d)).

Applicants' answer to this interrogatory is also of the

"you can find your answer somewhere in these documents" type, which is not a satisfactory answer. However, Applicants have identified only a few documents, and have clarified their answer to mean that they rely on the entire contents of those few documents. However, they have not been willing to supplement their answer to that effect, so far.

80-10(a) is answered, but (b) is not. I think that (b) should be answered. This was not discussed 8/8 (another oversight), but on 8/12, attorney Baxter informed me that Applicants rely on the entire documents. However, the specific documents containing this information have not been identified and I think they should be. I can't be asked to search through over 100 documents to find all the points where Applicants know there is information about rainout (as defined in this interrogatory), without clairvoyance.

CONCLUSION

For the reasons set forth and incorporated by reference above, Applicants should be compelled to answer or supplement their responses to the above-mentioned interrogatories to the extent that they do not do so voluntarily.

Wells Eddleman

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CERTIFICATES OF NEGOTIATIONS
re 7-29 response of
Applicants re Eddleman 64f, 67 and 80
and
re 8-5-83 response of
Applicants re Eddleman 75 and 83/84
by Wells Eddleman

On August 1, 1983, Applicants' attorney Baxter and I agreed to negotiate on August 8 over the objections and responses to my interrogatories, as contained in their 7-29-83 response re 64f, 67 and 80 (Eddleman contentions). On August 8, we and attorney Pamela Anderson for Applicants (re 80 only) did negotiate, covering all concerns. No progress was made except that I agree that a literal answer to 80-5 interrogatories would be burdensome. Attorney Baxter agreed to not oppose filing of a motion to compel re these on 8-19 (one day extension) and I sent the Board a card to that effect.

On August 5, 1983, Applicants' attorney Hill Carrow and I agreed to negotiate August 9 re my concerns on their objections and responses to interrogatories (2d round) re Eddleman 75 and 83/84. We did so and no progress was made. I so advised the Board by card.

In both negotiations, Applicants' attorneys said it was OK to use my 8/8 arguments re interrogatories G8 and G9 by reference in any motion to compel. I affirm the above is true. Wells Eddleman