

Set (3)  
DOCKETED  
USC, items filed 9/8

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

'83 SEP 12. AR-84

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

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

MOTION TO COMPEL DISCOVERY and CERTIFICATE OF NEGOTIATIONS  
RE INTERROGATORIES ON EDDLEMAN 29/37B (2d round)  
by Wells Eddleman

Negotiations: On 8-19-83 Applicants served responses to my second round of discovery on Eddleman 29 and on Eddleman 37B. Attorney Baxter and I agreed to negotiate our disputes on these on 8-29. Dean Aulick joined in the negotiations and progress was made on many of the objections. Those unresolved which I have decided are worth pursuing are the subject of the following Motion to Compel. I hereby certify that the above is true. *Wells Eddleman* 9-8-83.

MOTION TO COMPEL

Concerning my interrogatory 29-10(a) (p.26 of 8-19 response), I believe Applicants are required to answer parts (i), (ii) and (iii) under the Board's 8-24 Order. Part (iv) is dropped; Applicants say a future response will cover this; if response is not made, one should be compelled; as we are not negotiating this now, I must move to compel at this time if at all.

Concerning 29-16(c) thru (e), pages 35-36 of 8-19 response, Applicants should reveal, or give me access to, the specifications for radioiodine detecting and removing equipment which they have made to their vendors. If the information is proprietary, a protective order can be entered, or I can agree to not disclose it except for use in the hearings/appeals of this case.

The specifications of this equipment are clearly relevant under the Board's 8-24-83 Order<sup>(see at 11)</sup> and Applicants should supply them or make them available. Since they don't have the vendors' own specs for the equipment, their specifications TO the vendors for it is my next best source of information.

29-23(s)(t) and (u) are relevant because Applicants' claim of holding failed fuel to 1% of the total is an important base of their radioiodine release estimate. (see 8-19-83 resp. at 51 for the questions; objection is cited thereon.)

I understand Applicants operated their Brunswick nuclear plant (which has a similar 1% planned maximum failed fuel fraction) in 1978 and perhaps at other times with much higher levels of failed fuel -- around 15%. Applicants' willingness to operate with such levels of failed fuel is clearly relevant to whether they can be trusted to operate Harris in accord with the 1% failed fuel limit for Harris. If not, radioiodine releases could exceed the Appendix I limits -- CP&L's dose estimate is about 1/3 the limit or more already, so only 3-4% failed fuel could do for putting doses over the limit.

These parts (s),(t) and (u) are the most relevant of the ones objected to re 29-23, and should be answered for the reasons given above.

29-25(b) (8-19 resp at 54) <sup>WK</sup> should be answered, per 8-24 Board Order, except as to (xv) and (xvi). (see 8-24 Order at 11, 12)

SECOND 37-B-5(h) (8-19 resp at 71) means to ask about the works of the listed authors, which works concern the health effects mentioned in 37B. That's literally what it says. Applicants, informed of this meaning, stand on their answer of 8-19.

However, if they have made or had made for them any studies <sup>listed</sup> of the works of the authors ~~xxxx~~ in 37B, which works concern the health effects cited in 37B, that is surely relevant to 37B.

Applicants should be compelled to disclose whether they have made any such studies (obviously relevant), and to identify the documents containing any such studies (as asked in Interrogatory 37-B - 5 (o) (1) (bb) on page 72 of the response).

37B6(f), page 75 of 8-19 response, asks for a description of health effects Applicants believe are outside the scope of 37B. They have said they think many health effects are, but they haven't been willing to give a descriptive answer to the question. It is clearly relevant what health effects are covered in 37B and what health effects are not. Applicants haven't answered either question yet.

37B 8 (b),(c) and (d), page 80 of 8-19 resp, should be answered as asked: the significance to health, to persons, and to their well-being is inquired about. Applicants may answer that there is not a "statistical significance" in their view, but they may not avoid answering whether people think it is significant, and whether Applicants think it is significant to people, to have cancer or genetic damage.

SECOND 37B-8(a) thru (c), p.84, ask if Applicants know the value persons place on their lives. This is not a perception of risk. It is a value of an environmental effect (death or genetic disease leading to death, from emissions of the Harris plant). This is relevant in

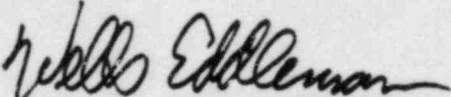
weighing the costs and benefits of the health effects of the Harris plant. Applicants should be compelled to tell what they know, if they know anything about this.

Second 37-B-8 (d) thru (t), 8-19 response at 85-87, objection on 87 thru 89 , are clearly relevant to weighing Harris electricity against health effects. Applicants, if they know answers to these questions, which are quite specific in an effort to pin down their opinions, should answer them. If the Staff is a more appropriate group to ask these questions of, I'll be glad to ask them. What Applicants know, though, is relevant to 37B. The value of life in terms of electricity, and the values of health effects in terms of electricity, are exactly what is being balanced in licensing Harris to operate, from a NEPA standpoint.

#### CONCLUSION

For the above reasons, Applicants should be compelled to respond to the <sup>above-cited</sup> items of discovery on 29 and 37B in my second round of discovery .

8 September 1983

  
Wells Eddleman