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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'83 SEP 26 P3:52

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

APPLICANTS' ANSWER TO INTERVENOR
EDDLEMAN'S MOTION TO COMPEL
DISCOVERY RE EDDLEMAN 29 AND 37B
(Second Round)

Intervenor Wells Eddleman has moved this Board by a Motion to Compel dated September 8, 1983 ("Motion to Compel") to compel Applicants to respond to various interrogatories to which Applicants objected in their August 19, 1983 Responses to Wells Eddleman's General Interrogatories and Interrogatories on Contentions 29 and 37B to Applicants' Carolina Power & Light Company et al. (Fourth Set) ("Applicants' Responses"). Applicants have been extremely restrained in their objections and have provided answers to many interrogatories of questionable relevancy and scope. Applicants stand on their objections which have been lodged, but do not reiterate them here in deference to the desires of the Board. Applicants feel constrained, however, to identify to the Board factual information which contradicts the false impressions and groundless assumptions advanced for the first time by Mr. Eddleman in his Motion.

Mr. Eddleman's arguments for compelling Applicants to provide responses to 29-23(s), (t), and (u) ignore the fact that this Board has recently established the irrelevancy of technical information regarding plants of designs dissimilar to Harris, and which played no role in Applicants' determination of radioiodine releases or Appendix I compliance in these proceedings. Memorandum and Order (Ruling on Spent Fuel Transportation Contentions and Miscellaneous Motions) at 10, August 24, 1983. Applicants did not determine Appendix I compliance at the Harris Plant based on fuel performance at Brunswick and the designs of the facilities are radically different, as the Brunswick units employ boiling water reactors. See Applicants' Objection to Interrogatory 29-23(o).

In addition, Mr. Eddleman's arguments are replete with erroneous factual assumptions. Mr. Eddleman assumes similarity of design and suggests that Applicants have operated their Brunswick Plant with failed fuel fractions as high as 15%. Motion to Compel at 2. Mr. Eddleman's figure of 15% is unsupported and categorically refuted by the available factual evidence, which shows that the failed fuel percentage at Brunswick does not even approach such an extravagant level. See Applicants' Response to "New Contentions Re Spent Fuel Cask Safety" By Wells Eddleman at 12-13 & n.8 (August 24, 1983). In addition, Mr. Eddleman implies that Applicants will deliberately operate Harris in a manner which will exceed

Appendix I guides on radioiodine releases; however, Mr. Eddleman had previously responded that he does not allege Applicants will deliberately operate Harris in such a manner and has no evidence available to him to support such an allegation. Eddleman Response to NRC Staff Interrogatory No. 15 of May 6, 1983. Mr. Eddleman also leaps to the erroneous conclusion that an increase in the failed fuel rate will automatically result in a corresponding increase in Applicants' dose estimate. Motion to Compel at 2. Such a leap between an alleged cause and effect circumvents and ignores many possible intervening steps including filtration, the limited conditions of operation contained in the FSAR, containment of any additional radioiodines within the primary or secondary coolant systems, and many other measures when Applicants may take, and of which Mr. Eddleman has been made aware. See Applicants' Responses to Interrogatories 29-4(g), (h), (m) & (n), 29-23(j), and 29-27(p) of June 17, 1983 and August 29, 1983. The exceptionally high failed fuel figure of 15% and implicit release assumptions that Mr. Eddleman hypothesizes appear to be well within the accident range of events and therefore beyond the scope of Appendix I. See Applicants' Responses to Interrogatories 29-4(n) and 29-22(c). For all the reasons above, failed fuel fraction information from the Brunswick Nuclear Plant is entirely irrelevant to Applicants' Appendix I compliance calculation and offers no possibility

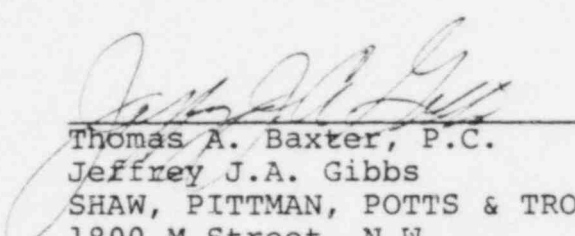
for comparison of anticipated fuel performance or radioiodine releases at the Harris Plant.

Mr. Eddleman's Motion also creates the false impression that Applicants' vendor specifications contain the type of information that the Board addressed in its Memorandum and Order at 11. The information sought by Interrogatory 29-16 (c) to (e) is separate and distinct from that subject to the Board's Memorandum and Order. Compare Memorandum and Order at 11 with Eddleman Interrogatory 29-16(c) to (e) and Applicants' Response to Interrogatory 29-16(c) to (e). Furthermore, the specifications contain only small segments of the information sought and are subject to modification and changes due to equipment availability and refinement. Id. Applicants' vendor specifications will not supply useful detailed information since those specifications only contain parameters which are many steps removed from the appropriate issue of whether or not Applicants' equipment can meet the performance specifications in Applicants' FSAR. See Memorandum and Order at 9.

In an effort to be responsive, Applicants will produce for inspection and copying to Mr. Eddleman general material, provided by the vendors, describing in a generic sense their equipment and its functions. Such material would provide as much useful information as Applicants' vendor specifications in assisting

Mr. Eddleman to resolve any legitimate concerns with equipment characteristics without forcing Applicants to undergo the extensive burden of locating, extracting and compiling the information sought from massive amounts of purchasing documentation.

Respectfully submitted,



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Dated: September 23, 1983

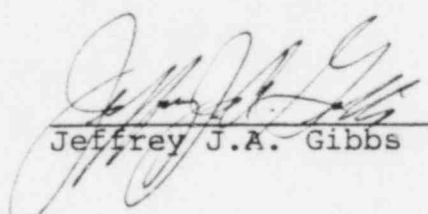
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Answer To Intervenor Eddleman's Motion To Compel Discovery Re Eddleman 29 and 37B (Second Round)" were served this 23rd day of September, 1983 by deposit in the U.S. mail, first class, postage prepaid, to the parties on the attached Service List.



Jeffrey J.A. Gibbs

Dated: September 23, 1983

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NUCLEAR REGULATORY COMMISSION

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