

February 10, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
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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

APPLICANTS' COMMENTS ON THE BOARD'S
TENTATIVE SCHEDULE FOR THE EVIDENTIARY
HEARING ON ENVIRONMENTAL ISSUES AND
FOR A PREHEARING CONFERENCE

In its Memorandum and Order (Ruling on Motions for Summary
Disposition of Health Effects Contentions: Joint Contention II
and Eddleman Contentions 37B, 8F(1) and 8F(2)) at 51 (Jan. 27,
1984), the Board announced that it:

is setting a tentative evidentiary hearing
beginning date on the environmental issues
for June 5, 1984. We are also scheduling
a prehearing conference for May 1, 1984.
Any party should advise the Board by
February 10, 1984 if these dates are
not acceptable, and alternative dates
should be proposed.

Applicants are available for a prehearing conference
on May 1, 1984. The tentative hearing schedule of June 5,
1984, however, presents difficulties as it relates to a hearing
on Joint Contention II(a). As Applicants advised the Board's
law clerk, Applicants' radiological health effects consultant,
Dr. Fabrikant, will be out of the country from May 10 through
June 3. Consequently, while it may be physically possible for

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Dr. Fabrikant to be at the hearing on June 5, he would not be available to assist Applicants in their preparation for hearing, including the cross-examination of other witnesses.^{1/} June 19 would be the alternative date Applicants propose for a hearing on Joint Contention II(a).^{2/}

Finally, Applicants wish to advise the Board that they are examining the possibility of filing a motion for clarification and reconsideration of the Memorandum and Order which, if filed, will be submitted no later than February 24, 1984. While Applicants are anxious to achieve finality on the issues to be tried, we have serious concerns with several aspects of the Memorandum and Order and, owing to the complexity of the issues, may not be able to seek relief on an earlier schedule. At that time, Applicants will also be in a position to comment further on the schedule.^{3/}

Respectfully submitted,

Thomas A. Baxter

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1/ The Board's Order did not suggest a schedule for filing testimony, but we assume that would be set for early to mid-May.

2/ There are other environmental issues which could be ready for hearing on June 5 if they are not decided earlier by summary disposition -- e.g., Eddleman 8F(1), 15AA, 83/84B; Joint II(c) and (e).

3/ Today Applicants received "Wells Eddleman's Requests for Clarification of, and Objections to, Board Order of 1-27-84" and "Joint Intervenors' Response to Board Order Served Jan. 30 (Ruling on Summary Disposition on Joint Contention II etc.)," both dated February 6, 1984. With the Board's indulgence, Applicants
(Footnote continued)

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Dated: February 10, 1984

(Footnote cont'd.)

3/ propose to file any response they have to these pleadings at the same time Applicants file any motion for clarification and reconsideration.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Comments on the Board's Tentative Schedule for the Evidentiary Hearing on Environmental Issues and for a Prehearing Conference" were served this 10th day of February, 1984, by deposit in the U.S. mail, first class, postage prepaid, upon the parties on the attached Service List.

Thomas A. Baxter
Thomas A. Baxter, P.C.

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