

January 3, 1984

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) 50-401 OL
MUNICIPAL POWER AGENCY)
)
(Shearon Harris Nuclear Power)
Plant, Units 1 and 2))

APPLICANTS' MOTION TO RESUME
DISCOVERY ON JOINT CONTENTIONS I AND VII

During the second prehearing conference in this proceeding, held on February 24, 1983, the parties reached some agreements with respect to the schedule for the proceeding. Among the agreements reached were the following:

- a. that the last date for filing discovery requests for safety contentions will be 65 days following completion of the environmental hearing (Tr. 475); and,
- b. that discovery will be deferred as to certain safety contentions until after the completion of the environmental hearing (Tr. 476-478).

See Memorandum and Order (Reflecting Decisions Made Following Second Prehearing Conference) at 4 (March 10, 1983). The safety contentions on which discovery has been deferred are: Joint I and VII; Wilson III; Eddleman 9, 11, 116 and 132C(II). (Discovery proceeded on the other safety contentions -- i.e., on Joint IV, V, VI; CHANGE 44; Eddleman 41, 45, 64(f), 65, 67 and 132.) In the schedule established

8401060280 840103
PDR ADOCK 05000400
G PDR

DOCKETED
USNRC

'84 JAN -5 A11:00

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

D503

by the Board, the environmental hearing was set for January, 1984, while a two-phase safety hearing was scheduled for September 5, 1984 (management capability issues) and October 10, 1984 (remaining safety issues). Emergency preparedness and physical security plan issues were given different schedules.

In a telephone conference held on December 22, 1983, the Board announced that the environmental hearing was being postponed to May, 1984, but that the two-phase safety hearing schedule was unchanged. Subsequently, Applicants initiated discussions with the affected parties (i.e., Mr. Barth, Mr. Eddleman, Dr. Wilson and Mr. Payne for the Joint Intervenors) on the viability, in view of the delay in the environmental hearing, of the above agreements with respect to discovery on safety issues.

Applicants proposed that discovery be opened as of January 1, 1984, on the safety contentions for which discovery previously had been deferred, and that discovery on all safety contentions (i.e., those listed above) be concluded on the schedule already established by the Board:

March 15, 1984	Last day for filing discovery requests.
April 16, 1984	Last day for filing responses to discovery requests.

Memorandum and Order . . . at 7 (March 10, 1983).

Because it is relevant to the parties' positions, the remainder of that schedule is set forth as follows:

May 16, 1984	Last day for filing motions for summary disposition.
--------------	--

June 11, 1984	Last day to answer any motions for summary disposition.
July 11, 1984	Board ruling on any motions for summary disposition.
August 9, 1984	Filing of direct written testimony.
September 5, 1984	Commencement of Phase I hearing (management capability issues).
October 10, 1984	Commencement of Phase II hearing (remaining safety issues).

Id. at 7-8 (footnote omitted).

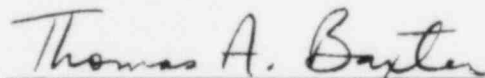
Dr. Wilson and the NRC Staff have agreed to Applicants' proposal. Mr. Eddleman agrees to Applicants' proposal subject to the following conditions, which have been accepted by Applicants and the Staff: that if any motions for summary disposition of Eddleman safety contentions are filed on a schedule such that Mr. Eddleman's answer is due while the environmental hearing is in progress, the time for filing his response will be tolled until completion of the environmental hearing and for a minimum of fifteen (15) days thereafter. It was further agreed that the parties would renegotiate this arrangement if a substantial break occurs in the midst of the environmental hearing.

The Joint Intervenors requested that the same conditions attach to their entry into the stipulation proposed by Applicants. While the parties are not yet aware of the extent to which Joint Contention II has survived summary disposition, Joint Intervenors fear the prospect of answering a motion for summary disposition of their safety contentions

while the environmental hearing is in progress. Applicants have advised Joint Intervenors that summary disposition is not presently contemplated for Joint Contention I, but that it is likely a motion will be filed on Joint Contention VII or parts thereof. Because there are four parties sponsoring the Joint Contentions, three of which are organizations with counsel representation, Applicants have not accepted the Joint Intervenors' position and believe they have the capability, if the situation arises, to answer any summary disposition motion in accordance with the established schedule.

Consequently, Applicants move that the Board issue an order directing that discovery be resumed on Joint Contentions I and VII, that March 15, 1984 be set as the last day for filing discovery requests on those contentions, and that April 16, 1984 be set as the last day for responding to requests.

Respectfully submitted,



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
(919) 836-7707

Counsel for Applicants

Dated: January 3, 1984

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

)
)
)
)
)
)
)
)
)

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

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)	50-401 OL
MUNICIPAL POWER AGENCY)	
)	
(Shearon Harris Nuclear Power)	
Plant, Units 1 and 2))	

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
Janice E. Moore, Esquire
Office of Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Docketing and Service Section
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
P.O. 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
P.O. Box 1551
Raleigh, North Carolina 27602

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

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

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

Mr. Robert P. Gruker
Executive Director
Public Staff - NCUC
P.O. Box 991
Raleigh, North Carolina 27602