

April 18, 1984

~~RELATED CORRESPONDENCE~~UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONDOCKETED
USNRCBEFORE THE ATOMIC SAFETY AND LICENSING BOARD APR 19 11:03

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 OLOFFICE OF SECRETARY
MARKETING & SERVICE
BRANCHAPPLICANTS' ANSWER TO WELLS EDDLEMAN'S
MOTION FOR EXTENSION OF TIME TO CONDUCT
FURTHER DISCOVERY ON HIS CONTENTION 41

On April 3, 1984, intervenor Wells Eddleman filed a ". . . Motion for Extension of Time to ask Questions based on information from Welders Identified in March 1984." Applicants strongly oppose the Eddleman Motion. Mr. Eddleman has conducted two rounds of discovery on Contention 41 already and the time scheduled by the Board for discovery on this contention has expired. Further, the relief requested is based on speculation and is premature, and if granted would disrupt the remainder of the schedule set by the Board for adjudication of Contention 41.

Discovery on Eddleman 41 has been open since September 22, 1982, by order of the Board. Memorandum and Order (Reflecting Decisions Made Following Prehearing Conference), LBP-82-119A, 16 N.R.C. 2069, 2113 (1982). In its Memorandum and Order (Reflecting Decisions Made Following Second Prehearing Conference) at 7 (March 10, 1983), the Board set March 15, 1984

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as the last day for filing discovery requests on Eddleman 41 (and other safety contentions).^{1/} This 18-month period, especially when no evidentiary hearings have been conducted which might interfere with discovery, has clearly provided an adequate opportunity for Mr. Eddleman and other parties to pursue discovery on Eddleman 41.

Mr. Eddleman waited six months -- until March 21, 1983 -- to pose his first set of discovery requests to Applicants on Contention 41. While Applicants answered the bulk of those interrogatories on the merits on May 12, 1983, some objections were raised which led to a motion to compel filed by Mr. Eddleman nearly three months later -- on August 4, 1983. In telephone conferences held on September 22 and 23, 1983, and in a Memorandum and Order of October 6, 1983, the Board granted in part and denied in part the motion to compel.

Except for two subparts of one interrogatory -- 41-1(1) and 41-1(m) -- Applicants answered all of the interrogatories, as to which the motion to compel had been granted, on November 11, 1983, and January 13, 1984. Interrogatories 41-1(1) and 41-1(m) were the subject of negotiations for a consent protective agreement and, ultimately, of Applicants' Motion for Protective Order dated January 13, 1984. The Board resolved that dispute in a telephone conference on March 8, and Applicants answered the interrogatories, subject to the protective treatment imposed by the Board, on March 14, 1984.

^{1/} Applicants recently agreed, however, to extend this deadline to April 3, 1984 as to Eddleman 41.

On April 17, 1984, Applicants answered Mr. Eddleman's second-round discovery requests on Eddleman 41 -- filed on March 26, 1984. On April 3, 1984, Mr. Eddleman served second-round requests as to the March 14, 1984 answers by Applicants on welder employee information. Applicants' responses are now in preparation.

Applicants recite this somewhat tortuous history to illustrate that substantial discovery on Eddleman 41 has taken place, and that any lost opportunity was of Mr. Eddleman's own creation. While Applicants posed some objections to the exhaustive discovery requests filed, many of Applicants' objections ultimately were sustained by the Board. Further, Applicants should not be disadvantaged now for Mr. Eddleman's failure to conduct discovery promptly. He waited six months to pose his first requests and three months after the responses to file a motion to compel. The second-round requests came more than ten months after the answers to the first set and over four months after the bulk of disputed interrogatories was answered.

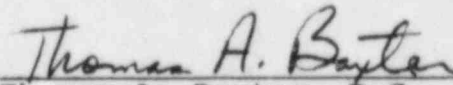
The relief now sought by Mr. Eddleman is unreasonable. On March 14, 1984 he was sent the welder employee information. Mr. Eddleman presumably intends to contact these employees in an attempt to gain additional information on Eddleman 41. In essence, then, he has obtained the capability to continue discovery of Applicants through their employees. The Motion, however, seeks the opportunity to come back to Applicants

with a third round of formal discovery after Mr. Eddleman has found the time to contact our employees. It is Mr. Eddleman's decision to pursue his case in this manner. He has no right, however, to extend the discovery period to accommodate this approach or to delay the proceeding until every potential for asking further questions is exhausted.

Paying deference only to his own plans for participation in the environmental hearing, Mr. Eddleman seeks leave to file such additional discovery until July 30, 1984. Among other problems with the proposal, it manifestly ignores the Board's August 9, 1984 deadline for filing testimony on this contention. This date, in turn, is pivotal to the initiation of hearings on the management and other safety issues. See March 10, 1983 Memorandum and Order at 7.

Discovery must at some point come to an end. Mr. Eddleman has been provided ample opportunity for discovery on Eddleman 41, and the maintenance of the Board's schedules is now crucial to the orderly and timely completion of this proceeding. The Eddleman Motion should be denied.

Respectfully submitted,



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Dated: April 18, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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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))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Answer to Wells Eddleman's Motion for Extension of Time to Conduct Further Discovery on His Contention 41" were served this 18th day of April, 1984, by deposit in the U.S. mail, first class, postage prepaid, to the parties on the attached Service List.

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

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50-401 OL

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