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May 16, 1984

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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 and 50-401 OL

Administrative Judges Kelley, Carpenter and Bright:

This is a report to the Board on the status of one of the admitted safety contentions in this proceeding -- Eddleman 9. In its Memorandum and Order (Reflecting Decisions Made Following Prehearing Conference), LBP-82-119A, 16 N.R.C. 2069, 2091 (1982), the Board stated as follows:

Eddleman 9 alleges that Applicants have not shown compliance with the NRC's regulations on environmental qualification of electrical equipment and that Applicants' equipment does not meet those

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standards. Applicants admit that they have not yet amended their FSAR to show compliance with NUREG-0588, which was adopted by the Commission in Petition for Emergency and Remedial Action, CLI-80-21, 11 N.R.C. 705 (1980) as the standards meeting General Design Criteria of 10 CFR Part 50, Appendix A. Applicants assert, however, that this will be done as a matter of course, and therefore suggest that the contention be dismissed. We find this approach unpersuasive. Applicants have admitted a deficiency in their FSAR and do not reply that their equipment in fact meets the appropriate standards. If and when that deficiency is corrected, Applicants may move for partial summary disposition on this contention. We therefore accept that portion of Eddleman 9 that alleges a deficiency in the FSAR. We do not accept the part of the contention that Applicants' equipment is not environmentally qualified. This part of the contention is not sufficiently specific. After Applicants amend their FSAR to reflect the qualification of their equipment, Mr. Eddleman can submit contentions of any specific inadequacies in qualification or noncompliance with the regulations based on that new material.

As subsequently codified, Eddleman 9 states:

FSAR 3.11C does not establish compliance with NUREG-0588 or NRC's rules on Environmental Qualification of Electrical Equipment for the Harris Plant.

Memorandum and Order (Addressing Applicants' Motion for Codification) at 3 (Jan. 17, 1983); Applicants' Motion for Codification of Admitted Contentions at 6 and A-14 (Dec. 17, 1982).

Since Eddleman 9 was admitted, Applicants have amended the FSAR to provide additional information on the environmental qualification of electrical equipment under 10 C.F.R. § 50.49,

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and a further FSAR amendment addressing this subject will be filed in the near future. Applicants and Mr. Eddleman have conducted discovery of each other, in 1984, on Contention 9. In addition, a meeting was held between Mr. Eddleman and Applicants' counsel and experts to present to Mr. Eddleman, on an informal basis, the information which will be included in the upcoming FSAR amendment. It was the hope of Applicants and Mr. Eddleman that through these informal discussions a settlement of Contention 9 would result prior to the May 16, 1984 deadline for filing motions for summary disposition of safety contentions. This has not occurred.

It is Applicants' position that in its current form Eddleman 9 is too broad to be decided through a hearing, since it arguably encompasses the entire program for demonstrating compliance with section 50.49. Mr. Eddleman is continuing to review the information on this program provided by Applicants, and further informal discussions may take place.

At this point, Applicants have agreed to forego the opportunity to file a motion for summary disposition of Eddleman 9 (unless there is a postponement of more than two months in the hearing on safety issues), in exchange for Mr. Eddleman's commitment to negotiate in good faith to reach a settlement of the contentions or, in the alternative, to reach agreement with Applicants and the Staff on a more specific statement of the contention. If this is not achieved by the end of June, Applicants will have to go to the Board to seek its assistance in resolving the differences among the parties. (Testimony on safety contentions must be filed by August 9, 1984.)

Respectfully submitted,

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