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March 9, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
OFFICE OF SECRETARY
SERVICE
BRANCH

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' RESPONSE TO WELLS EDDLEMAN'S MOTION TO
ALLOW FILING OF AFFIDAVIT OF DR. JOHN O. BLACKBURN

Applicants Carolina Power & Light Company and North Carolina Eastern Municipal Power Agency hereby file their response in opposition to Wells Eddleman's "Motion to Allow Filing of Affidavit of Dr. John O. Blackburn Concerning Wells Eddleman's 2.758 Petition & Affidavits," dated March 7, 1984.

On June 30, 1983, Mr. Eddleman filed a "Petition Under 10 C.F.R. 2.758 Re Alternatives and Need for Power Rule" with supporting affidavits. In August 1983, Applicants and the Staff responded.^{1/} In a telephone Conference call on September 22, 1983, the Board entertained Mr. Eddleman's arguments in support of his request to file a reply to Applicants' and the Staff responses to his original petition. Tr. 657-60.

^{1/} "NRC Staff Response To Intervenor Wells Eddleman's Petition for a Waiver Pursuant to 10 C.F.R. § 2.758," dated August 26, 1983; "Applicants' Response to Eddleman Petition Under 10 C.F.R. § 2.758 Re Alternatives and Need for Power Rule," dated August 31, 1983.

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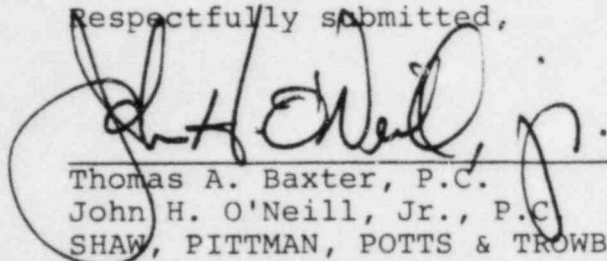
The Board Chairman stated that Mr. Eddleman did not have a right to reply to the responses to the \$ 2.758 petition. Tr. 658. Mr. Eddleman asked permission, nevertheless, to file an affidavit of Dr. Reeves "to correct some of the mathematical errors in the original petition." He also asked to file limited argument to point out where in previously filed affidavits arguments made by the Staff and Applicants were addressed. Tr. 659. The Board Chairman granted Mr. Eddleman permission to file a "short" reply, consisting of "perhaps an additional argument and some corrections." Mr. Eddleman was given until September 30, 1983 to file his short reply. Tr. 660. See "Wells Eddleman's Response re 2.758 Petition ..." dated September 30, 1983.

Now five months later, Mr. Eddleman wants to file an affidavit which purports to endorse affidavits previously filed by Mr. Eddleman and offers additional analysis. While Mr. Eddleman promised to file Dr. Blackburn's affidavit "as soon as practicable" at footnote 1 of his September 30 Response, the filing of such an affidavit was never authorized by the Board in the September 22, 1984 conference call. In fact, Mr. Eddleman never mentioned Dr. Blackburn in the conference call.

Dr. Blackburn's affidavit does precisely what the Board would not permit Mr. Eddleman to do in September 1983 -- provide new information. Finally, Mr. Eddleman does not demonstrate good cause for this untimely filing. He only explains why he could not obtain the affidavit earlier. He makes no showing that it is essential to his petition.

For all of the above reasons, Mr. Eddleman's Motion to Allow Filing of Affidavit of Dr. John O. Blackburn must be denied.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John H. O'Neill, Jr.", is written over a horizontal line. The signature is stylized with a large, looping initial "J".

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Dated: March 9, 1984

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NUCLEAR REGULATORY COMMISSION

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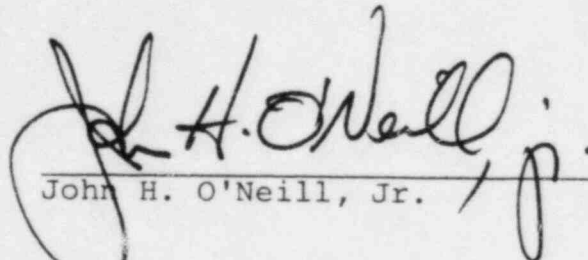
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response To Wells Eddleman's Motion To Declare Applicants' Motion For Summary Disposition Of Contention 15AA Untimely" and "Applicants' Response To Wells Eddleman's Motion To Allow Filing Of Affidavit Of Dr. John O. Blackburn" were served this 9th day of March, 1984, by deposit in the U.S. mail, first class, postage prepaid upon the parties on the attached Service List and hand-delivered to the parties marked with an asterisk on the Service List.



John H. O'Neill, Jr.

Dated: March 9, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

CAROLINA POWER & LIGHT COMPANY
and NORTH CAROLINA EASTERN
MUNICIPAL POWER AGENCY

(Shearon Harris Nuclear Power
Plant, Units 1 and 2)

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