

DOCKETED  
March 19, 1984UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

84 MAR 22 A10:50

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

BRANCH

In the Matter of )

) Carolina Power & Light Company  
) and North Carolina Eastern  
) Municipal Power Agency )Docket Nos. 50-400 OL  
50-401 OL(Shearon Harris Nuclear Power  
Plant, Units 1 & 2)MOTION TO QUASH APPLICANTS'  
NOTICE TO TAKE DEPOSITION

On March 15, 1984, Applicants filed a Notice to Take Deposition of Mr. Bleacher and Mr. Maples who have been found to be security experts in this proceeding. These experts reviewed Applicants' Security Plan and related material for the Intervenors. On March 19, 1984, Counsel for Intervenors telephoned Mr. Carrow, Counsel for Applicants, and expressed our objections to the taking of the depositions. Mr. Carrow replied he would take our objections under advisement.

The Intervenors hereby move to quash the Notice to Take Deposition for the following reasons:

1. As the ASLAB has stated, the Board should follow the Federal Rules of Civil Procedure as close as practicable. FRCP 26(b)(4) states that there are only two processes for one party to utilize discovery in relation to the other's witnesses. Both are extremely limited and scope and the Applicants have not followed either.

FRCP 26(b)(4)(A)(i) requires at a minimum a set of inter-

rogatories to establish who the other party will put on as witnesses at the hearing. Applicants in this instance did not contact Counsel for the Intervenors who was at the offices of the Applicants until late afternoon on the day of March 15. We have expressed our intent to conduct discovery on the security matters informally and would have been glad to discuss this with Applicants.

2. If Applicants would have submitted interrogatories or even continued with the informal discovery process, they would have discovered that Intervenors do not intend to call either Mr. Maples or Mr. Bleacher in any hearing on this matter.

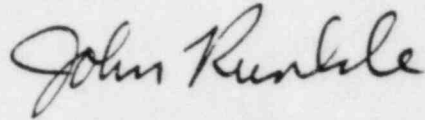
Under FRCP 26(b)(4)(B), either of the security experts is clearly an "expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial." The Applicants must then, if they desire to depose these experts, make "a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinion on the same subject by other means."

Wherefore, as it is highly unlikely Applicants can meet even a threshold showing of good cause, let alone exceptional circumstances, Intervenors hereby move that the Board quash the Applicants' Notice to Take Deposition. However, if the Board rules after further showing by Applicants that depositions of Mr. Bleacher and Mr. Maples are in order, we would then file a Protective Order limiting the scope of the discovery. We would also request that Applicants pay for all expenses, including attorney's fees,

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incurred in the taking of these depositions.

Respectfully submitted,



John Runkle  
Counsel for Intervenors  
(Security Contentions)

cc. Service List

Earl Roy Bleacher, Safeguards International, Inc.  
Donald Henke, Safeguards International, Inc.

Special Security International (for John Maples)

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CERTIFICATE OF SERVICE

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I hereby certify that a copy of the Motion to Quash Applicants' Notice To Take Deposition has been served by deposit in U.S. Mail, postage prepaid, to the following:

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This is the 20th day of  
March, 1984.



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