

June 30, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
CAROLINA POWER & LIGHT COMPANY)	Docket No. 50-261-OLA
)	
(H. B. Robinson Steam Electric)	ASLBP No. 83-484-03LA
Plant, Unit 2))	

APPLICANT'S OBJECTIONS TO HARTSVILLE GROUP'S
FIRST SET OF INTERROGATORIES AND
REQUESTS TO PRODUCE

Applicant objects to the following interrogatories contained in Hartsville Group's First Set of Interrogatories dated May 16, 1983,^{1/} for the reasons stated below.

General Interrogatory 1-2.

Applicant has not at this time designated any of the witnesses it will call. Identification of "each and every person" whom Applicant is "considering" calling as a witness is not a proper discovery request. In particular, it is unreasonable at this stage to ask for facts, opinions and grounds for

^{1/} The interrogatories were actually served by mail on May 14, 1983, as stated in the certificate of service.

opinions of possible witnesses who have not been selected and whose testimony has not yet begun to be formulated. We remind Hartsville Group that testimony in NRC licensing proceedings is to be prefiled and that there will be no surprises at the hearing as to the witnesses to be called by Applicant, the substance of their testimony, or their qualifications. We also point out that the names of the individuals responsible for responding to Hartsville Group's interrogatories have been provided in answer to General Interrogatory 1-1.

General Interrogatories 1-3 and 1-4.

Applicant's position on contentions will be developed through the preparation of testimony. The calculations, consultations and communications on which the as yet undesignated witnesses will rely in support of their testimony have not yet been determined. These interrogatories in effect call upon Applicant for trial briefs which are not required by the NRC's Rules of Practice and have not been mandated by the Licensing Board.

Contention 1 - Interrogatories 21 through 26.

The interrogatories call for opinions and legal conclusions which are among the ultimate issues in this proceeding. Such ultimate issues are not a proper subject of discovery requests.

Contention 1 - Interrogatories 34 through 36, 38 and 39.

Applicant objects to Interrogatories 34, 35, 36, 38 and 39 to the extent they would require unreasonably burdensome searches of massive numbers of files with respect to all three of Applicant's plants, without limitation on time (except that Interrogatory 34 is limited to action taken since January 1, 1978). Nevertheless, in each instance, Applicant has answered the interrogatories based on reasonable inquiry, specifying the nature of the inquiry. However, Applicant's response to these interrogatories does not concede the relevance to this proceeding of the information requested.

Applicant further objects to Interrogatories 34 and 38 to the extent they seek, respectively, "the name, title, dates of employment, address and telephone number" of certain disciplined personnel and "the name, address and telephone numbers" of persons making allegations of harassment or allegedly involved in such harassment. Public disclosure of such identifying personal information would constitute an undue invasion of personal privacy, and the disclosure itself could subject the named individuals to public harassment and intimidation.

Interrogatories 2-1 through 2-114.

Contention 2, to which these interrogatories relate, claims that an environmental impact statement on the repair program must be prepared. The NRC Staff has advised the Licensing Board and the other parties that such an environmental

statement will be prepared. Thus, in accordance with the Licensing Board's Memorandum and Order dated April 12, 1983, Contention 2 has been rendered moot and will be stricken. For this reason, Applicant has not provided answers to any of the interrogatories propounded under Contention 2.

Contention 3 - Interrogatory 3-5.

Applicant has provided an answer to this interrogatory, but objects to the provision of the referenced April 1, 1983 letter in that it would involve the disclosure of proprietary information, in the absence of a signed Proprietary Information Agreement appropriately restricting Hartsville Group's use and disclosure of the proprietary information.

Contention 3 - Interrogatories 42 through 53.

These interrogatories concern tube plugging of the existing Robinson and other Model 44F steam generators and derating of the Robinson plant as a result of tube plugging or degradation. They are outside the scope of Contention 3 and its bases, which assert that retirement of the Robinson plant would be more cost-beneficial than repair of the steam generators. The status of the existing steam generators and their present impact on plant rating does not enter into a determination as to whether repair of the steam generators by replacing the lower assemblies (including the tube bundles) or retirement of the plant is the more cost-beneficial alternative.

Contention 3 - Interrogatories 96 through 103 and 104(b).

These interrogatories relate to an alternative method of repairing the steam generators by sleeving. Sleeving is not encompassed by Applicant's application for a license amendment and is not put in issue as an alternative by Contention 3. The sleeving interrogatories are thus outside the scope of Hartsville Group's contentions. Nevertheless, to the extent that economic data on the sleeving alternative is supplied to the Staff in connection with the preparation of the environmental impact statement, the data will also be provided to Hartsville Group.

Contention 3 - Interrogatories 121 and 122.

Applicant objects to the request for production of "long range financial forecasts of CP&L financial statements," such as the input data and the output of the Company's computerized financial forecasting model. Applicant has not relied on such long range forecasts in this proceeding. Accordingly, the requested information is irrelevant. Further, many of the assumptions required for the production of such a forecast (such as dividend policy) are confidential. Moreover, release of financial forecasts would lessen Applicant's negotiating power with suppliers, to the detriment of CP&L's customers and investors. Finally, SEC regulations compel Applicant to ensure that all of its financial disclosures are accurate, and not speculative or misleading. Financial forecasts, by their very nature,

are speculative, and investors or members of the general public who rely on them may be misled.

Contention 3 - Interrogatories 126 and 127.

Applicant has answered these interrogatories, but objects to the provision of further information to the extent that it would involve the disclosure of proprietary information, in the absence of a signed Proprietary Information Agreement, appropriately restricting Hartsville Group's use and disclosure of the proprietary information. See Answer to Attorney General Interrogatory No. 33 in AG Attachment, pp. AG-117-118.

Contention 3 - Interrogatories 130 through 167.

Applicant objects to these interrogatories as an abuse of the discovery process. The interrogatories are almost a verbatim copying of a set of interrogatories recently propounded by the Attorney General of North Carolina to CP&L in an unrelated rate proceeding before the North Carolina Utilities Commission. Most of the interrogatories have no discernible relation to Contention 3, which is limited to a comparison of the alternatives of replacement and retirement.

To the extent the other interrogatories might develop information relevant to Contention 3, Applicant is left to speculate as to their relevance. The Commission's regulations on discovery assume a good faith effort on the part of the proponent of discovery requests to limit discovery to matters in

controversy as identified by the Licensing Board in its prehearing conference order. It is highly unreasonable to propound interrogatories and document requests without first considering their relevance to the issues in this proceeding.

Notwithstanding its objection to these interrogatories, Applicant has attached to its interrogatory responses a copy of its response to the Attorney General of North Carolina and will afford to Hartsville Group the same opportunity for inspection and copying of documents as afforded to the Attorney General. However, Applicant's response here is without prejudice to its right to object to any further related interrogatories.

Contention 8 - Interrogatories 27 through 28 and 41 through 43.

The interrogatories are outside the scope of the contention and its basis. As a basis for Contention 8, Hartsville Group asserted that more information was necessary "about the on site storage building particularly with reference to its construction and its ability to safely contain steam generators for an extensive period of time. (Tr. 61-62)." Memorandum and Order (Report On Special Prehearing Conference Held Pursuant To 10 CFR 2.751a) (April 12, 1983), at 21. But Interrogatories 27 and 28, and 41 and 42, seek to explore -- respectively -- alternatives to on site storage, and the transportation of the steam generator lower assemblies from the Reactor Containment Building to the storage vault.

Interrogatories Requiring New Studies and Calculations.

A number of the interrogatories call for studies or calculations which Applicant has not performed and which Applicant does not intend to perform for the presentation of its own case. In such instances, Applicant has provided basic data to the extent requested and available and has indicated that data or estimates requiring new studies or calculations is not available. Applicant objects to the interrogatories insofar as they call upon Applicant for new studies or calculations. The interrogatories which fall in whole or in part in this category are as follows:

Contention 3 -- Interrogatories 3-76, 3-89, 3-90, 3-91, 3-92, 3-93, 3-94, 3-104, 3-105, 3-107, 3-108, 3-109, 3-110, 3-118, 3-119 and 3-120.

Contention 8 -- Interrogatory 8-13.

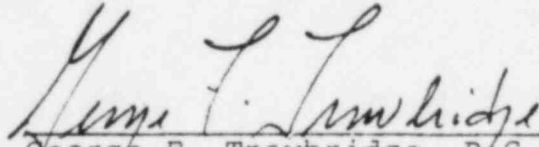
Included in the new studies and calculations which Applicant declines to perform are studies and calculations which are properly the responsibility of Hartsville Group in developing its case on its contention that the retirement of Robinson would be cost-beneficial. Discovery which attempts to place this burden on Applicant is improper.

Applicant takes this occasion, however, to advise Hartsville Group that it is undertaking for the preparation of its own case a projection of system production costs over a period of fifteen years, comparing the replacement of the

Robinson steam generators with the retirement of the Robinson plant. The results of these projections, when completed, will be furnished to the NRC Staff and to Hartsville Group.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE


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Delissa A. Ridgway

Counsel for Applicant

Dated: June 30, 1983

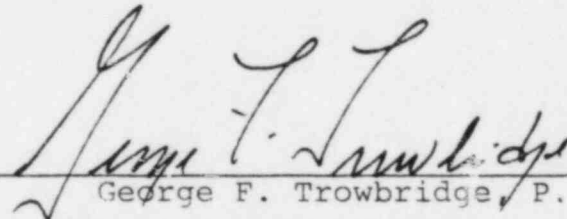
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)	(Steam Generator
(H. B. Robinson Steam Electric)	Repairs)
Plant, Unit 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Objections To Hartsville Group's First Set of Interrogatories and Requests To Produce," dated June 30, 1983, were served upon those persons on the attached Service List by deposit in the United States mail, postage prepaid, this 30th day of June, 1983.


George F. Trowbridge, P.C.

Dated: June 30, 1983

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