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June 19, 1984

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USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'84 JUN 21 P2:24

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 REINSTATE CONTENTION 58(2d)(FINANCIAL QUALIFICATIONS)

Applicants Carolina Power & Light Company and North Carolina Eastern Municipal Power Agency hereby reply to Intervenor Wells Eddleman's "Motion to Reinstate Contention 58(2d)(Financial Qualifications)," dated June 5, 1984.

The Board previously rejected Contention 58(2d)(regarding the financial qualification of small owners of the Harris Plant) as barred by 10 C.F.R. § 2.104, as amended, 47 Fed. Reg. 13,750 (1982). LBP-82-119A, 16 N.R.C. 2069, 2099 (1982). In March of this year, the Board rejected a motion by Mr. Eddleman for reconsideration of its earlier ruling. Tr. 776-77 (March 8, 1984 Conference Call). Mr. Eddleman now argues that "the D.C. Circuit Court of Appeals issued its mandate striking down the NRC's deletion of financial qualifications from NRC

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proceedings." Thus, Mr. Eddleman asserts "the Court's mandate invalidates the rule of 1982 by which the NRC removed the financial qualifications issue from consideration, and therefore, a motion to reinstate contention 58(2d) is in order."^{1/}

Subsequent to Mr. Eddleman's Motion, the Commission issued a Statement of Policy on Financial Qualifications. 49 Fed. Reg. 24,111 (June 12, 1984). The Commission has determined that the mandate of the U.S. Court of Appeals for the District of Columbia does not vacate the Commission's rule. Thus, the Commission stated:

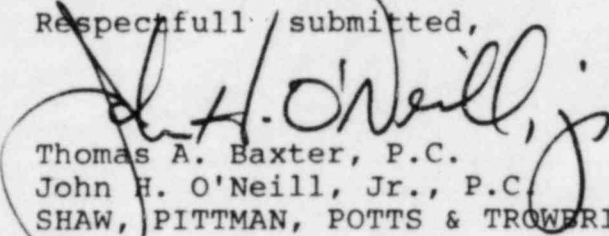
Accordingly, the March 31, 1982 rule will continue in effect until finalization of the Commission's response to the Court's remand. The Commission directs its Atomic Safety and Licensing Board Panel and Atomic Safety and Licensing Appeal Panel to proceed accordingly.

49 Fed. Reg. at 24,111. See Commonwealth Edison Co. (Byron Nuclear Power Station, Units 1 and 2), Memorandum and Order of the Atomic Safety and Licensing Appeal Board (June 13, 1984) (rejecting intervenor's claim that financial qualifications should be considered in the Byron remand).

^{1/} We treat this Motion as a second motion for reconsideration of Contention 58(2d), since a contention was never admitted and therefore never achieved a "status" to which it could be "reinstated".

Mr. Eddleman's Motion must thereby be denied.

Respectfully submitted,


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Dated: June 19, 1984

June 19, 1984

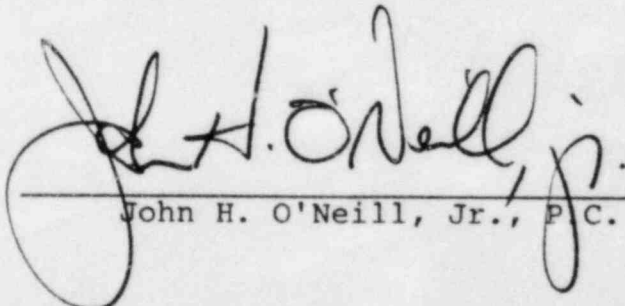
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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response to Wells Eddleman's Motion to Reinstate Contention 58(2d) (Financial Qualifications)" were served this 19th day of June, 1984, by deposit in the U.S. mail, first class, postage prepaid, upon the parties on the attached Service List.



John H. O'Neill, Jr., P.C.

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