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RELATED CORRESPONDENCE

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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' MOTION FOR SUBSTITUTION OF
CONTENTION AND FOR REVISION OF SCHEDULE
TO FILE DIRECT WRITTEN TESTIMONY ON
EDDLEMAN CONTENTION 9

Eddleman Contention 9 currently states as follows:

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 Codifi-
cation), dated January 17, 1983, slip op. at 3; Applicants' Mo-
tion for Codification of Admitted Contentions, dated December
17, 1982, at 6, A-14. The contention was admitted by the Li-
censing Board in its Memorandum and Order (Reflecting Decisions
Made Following Prehearing Conference), LBP-82-119A, 16 N.R.C.
2069, 2091 (1982). Eddleman 9, along with the other remaining

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safety issues, is scheduled for the Phase II hearing to commence on October 10, 1984. Memorandum and Order (Reflecting Decisions Made Following Second Pre-hearing Conference), dated March 10, 1983, slip op. at 7-8. The schedule now calls for direct written testimony to be filed by August 9, 1984. Id., slip op. at 7.

In admitting the contention, the Licensing Board stated:

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 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.

LBP-82-119A, 16 N.R.C. at 2091.

Since Eddleman 9 was admitted, Applicants have amended the FSAR to provide further information on the environmental qualification of electrical equipment under 10 C.F.R. § 50.49.^{1/} (An additional FSAR amendment addressing this subject and conformance with NUREG-0588 will be filed within the next few weeks.) Discovery has been conducted on Eddleman 9 as well.^{2/} In addition, Applicants' counsel and experts have met with Mr. Eddleman on two occasions to exchange information on an informal basis. As reported in Applicants' letter to the Licensing Board of May 16, 1984, the purpose of these informal discussions was to provide a basis either for settlement, or for a more specific statement of the contention.

As a result of negotiation between Applicants and Mr. Eddleman and consultation with the Staff, Applicants and Mr.

^{1/} 10 C.F.R. § 50.49 was published as a final rule of the Commission on January 21, 1983, at 48 Fed. Reg. 2733.

^{2/} Discovery has included: Applicants' discovery requests to Mr. Eddleman of January 24, 1984, to which Mr. Eddleman responded on March 7, 1984; the NRC Staff's ("Staff's") discovery requests to Mr. Eddleman of March 15, 1984, to which Mr. Eddleman responded on April 19, 1984; Applicants' follow-up discovery requests to Mr. Eddleman of March 23, 1984, to which Mr. Eddleman responded on April 12, 1984; Mr. Eddleman's discovery requests to Applicants of March 26, 1984, to which Applicants responded on April 17, 1984; and Mr. Eddleman's discovery requests to the Staff of March 26, 1984, to which the Staff responded on April 18, 1984.

Eddleman 3/ have reached a partial agreement on a more specific statement of Eddleman 9. As proposed by Mr. Eddleman, Eddleman 9 would now read:

The entire EQ program at Shearon Harris is inadequate based upon the fact that there are pervasive, systematic errors in it. Examples include:

- A. The proposed resolution and vendor's modification for ITT-Barton transmitters has not been shown to be adequate. (Ref. IE Information Notices 81-29, 82-52 and 83-72).
- B. There is not sufficient assurance that the concerns with Limitorque valve operators identified in IE Information Notice 83-72 (except for Items C2, C5 and C7) have been adequately resolved.
- C. It has not been demonstrated that the RTDs have been qualified in that the Arrhenius thermal aging methodology employed is not adequate to reflect the actual effects of exposures to temperatures of normal operation and accidents over the times the RTDs could be exposed to those temperatures. (Ref. NUREG/CR-1466, SAND-79-1561, Predicting Life Expectancy of Complex Equipment Using Accelerated Aging Techniques.)
- D. The qualification of instrument cables did not include adequate consideration and analysis of leakage currents resulting from the radiation environment. These leakage currents could cause degradation of signal quality

3/ Counsel for the Staff have indicated that the Staff will set forth its position in a separate response to this motion.

and/or spurious signals in Harris instrument cables.

- E. There is not sufficient assurance that the physical orientation of equipment in testing is the same as the physical orientation of equipment installed.
- F. The effects of radiation on lubricants and seals has not been adequately addressed in the environmental qualification program.
- G. There is inadequate assurance that failure to report all results of environmental qualification tests, including failures, has been brought to light in connection with electrical equipment installed in Harris. This includes past test failures of equipment which subsequently passes an EQ test and test failures of equipment which is said to be qualified by similarity. (Ref. Item 2, Page 5, L. D. Bustard et al., Annual Report: Equipment Qualification Inspection Program, Sandia National Laboratories, FY83.)

Applicants have agreed to the above statement of specific subcontentions A through G.^{4/} However, as Applicants have

^{4/} Applicants believe that these subcontentions are admissible based on a balancing of the five factors for late-filed contentions of 10 C.F.R. § 2.714(a)(1). Those factors are:

- (i) Good cause, if any, for failure to file on time.
- (ii) The availability of other means whereby the petitioner's interest will be protected.

(Continued next page)

informed Mr. Eddleman, Applicants' do not agree to his proposed language for the "preamble." That language expressly calls into issue the "entire EQ program at Shearon Harris," with items A through G being only "[e]xamples of pervasive,

(Continued)

- (iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.
- (iv) The extent to which the petitioner's interest will be represented by existing parties.
- (v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

It is not clear whether the first factor weighs for or against admission of subcontentions A through G. These subcontentions are, for the most part, generic concerns based on information which has been publicly available for some time. The second and fourth factors probably weigh in favor of admission, since there are no other admitted contentions addressing these concerns and Applicants are aware of no other means by which Mr. Eddleman's interest will be protected at this time. With respect to the third factor, Applicants question whether Mr. Eddleman's participation will contribute to the development of a sound record. This factor probably weighs against admission. The fifth factor, however, weighs in favor of admission. Subcontentions A through G arguably constitute a narrowing of Eddleman's interest. Delay is not an issue because the parties have agreed to go to hearing on these subcontentions according to the previously established schedule. Applicants believe that the second, fourth and fifth factors outweigh the first and third factors here. Applicants also believe the proposed subcontentions satisfy the basis and specificity requirements of 10 C.F.R. § 2.714(b).

systematic errors." This restatement of the contention is, in effect, as broad as the present contention.^{5/} A contention which encompasses the entire program for demonstrating compliance with the Commission's regulations on environmental qualification of electrical equipment clearly is too broad to be decided through an evidentiary hearing, and patently fails to meet the specificity requirements of 10 C.F.R. § 2.714(b). See Public Service Company of New Hampshire, et al. (Seabrook Station, Units 1 and 2), LBP-82-76, 16 N.R.C. 1029, 1048-49 (1982) (contention on environmental qualification of electrical equipment lacks specificity where particular equipment not identified as failing to meet regulatory requirements).

Mr. Eddleman's restatement would permit the litigation of any number of further "examples" of the alleged "pervasive, systematic errors" in Applicants' program while allowing Mr. Eddleman to bypass the regulatory requirements governing admissibility of late-filed contentions.

Indeed, the Licensing Board in admitting Eddleman 9 refused to admit as part of the contention a similar broad allegation that Applicants' electrical equipment is not

^{5/} Indeed, the proposed restatement appears to be even broader, since it is not, on its face, limited to environmental qualification of electrical equipment but includes the "entire EQ program."

environmentally qualified. See LBP-82-119A, 16 N.R.C. at 2091. Rather, the Licensing Board indicated that after Applicants had amended their FSAR to show compliance with the Commission's regulations, Mr. Eddleman could, based on the new information, submit contentions of "any specific inadequacies" in Applicants' qualification of electrical equipment. Id. (emphasis added).

As stated above, in the course of informal negotiations with Mr. Eddleman, Applicants have provided him with information on their program for environmental qualification of electrical equipment in addition to information provided through formal discovery. This information is considerably more voluminous and detailed than the information which ultimately will be included in Applicants' FSAR § 3.11. Information provided to Mr. Eddleman has included: a general description and overview of the program; a copy and detailed explanation of the Equipment Qualification Master List (a computerized list of all safety-related electrical components to be qualified under Section 50.49, which includes the component name, function, manufacturer, model or serial number, and other relevant information); a representative sample and detailed explanation of Environmental Qualification Packages (packages which document the environmental qualification of particular components and

include such information as the component performance requirements, the environmental conditions to which the component may be subjected, vendor test reports, and Applicants' analysis of such reports); and a representative sample of cable routing drawings. Further, Applicants have discussed in detail with Mr. Eddleman the applicability or non-applicability to Shearon Harris of numerous concerns expressed by Mr. Eddleman relating to environmental qualification of electrical equipment.

In short, there is no justification for restating Eddleman 9 as broadly as Mr. Eddleman proposes. Mr. Eddleman has had ample information on the basis of which to identify the specific concerns which he feels have not been satisfied by the formal and informal exchanges of information which have taken place. Mr. Eddleman has identified those concerns in Subcontentions A through G.

Applicants propose that the preamble to Eddleman 9 as restated above by Mr. Eddleman be revised to state as follows:

The program for environmental qualification of electrical equipment at Shearon Harris is inadequate for the following reasons:

This preamble, along with subcontentions A through G, will provide the parties and the Licensing Board with a manageable contention for evidentiary hearing. It will enable Applicants and the Staff properly to address Mr. Eddleman's areas of concern.

It will also permit the Licensing Board properly to focus on the issues deemed important by Mr. Eddleman and will avoid considerable wasted efforts on the part of the Licensing Board and all the parties.

Applicants also propose that, if the Licensing Board grants Applicants' motion for a substituted contention, the deadline for filing of direct written testimony be extended from August 9 to August 31, 1984. This extension would be necessary because of the relatively late admission of the substituted contention. Mr. Eddleman and the Staff have agreed to the requested extension.

For ail of the above reasons, Applicants respectfully request that the Licensing Board substitute for Eddleman 9 subcontentions A through G above, with the preamble proposed by Applicants, and that the deadline for filing direct written testimony on Eddleman 9 be extended to August 31, 1984.

Respectfully submitted,

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Dated: July 12, 1984

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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Applicants' Motion for Substitution of Contention and for Revision of Schedule to File Direct Written Testimony on Eddleman Contention 9" were served this 12th day of July, 1984, by hand delivery to counsel for the NRC Staff, by Express Mail to Mr. Wells Eddleman and by deposit in the United States Mail, First Class, postage prepaid, to all others on the attached Service List.

Michael A. Swiger
Michael A. Swiger

DATED: July 12, 1984

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NUCLEAR REGULATORY COMMISSION

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