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July 27, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)
)
CAROLINA POWER & LIGHT COMPANY) Docket No. 50-400 OL
and NORTH CAROLINA EASTERN)
MUNICIPAL POWER AGENCY)
)
(Shearon Harris Nuclear Power)
Plant))

APPLICANTS' MOTION FOR ISSUANCE OF
AN ORDER ESTABLISHING PROCEDURES
FOR REQUESTING EXTENSIONS OF TIME

Applicants move the Board for the issuance of an order establishing the following procedure for requests to the Board for extension of deadlines established by the Board:

(1) Requests for extension of time should be in the form of a written motion unless the motion cannot be filed sufficiently in advance of the subject deadline for the Board to rule before the deadline passes.

(2) Oral requests for extension of time should only be made when there is not sufficient time for a written motion to be filed and acted upon by the Board.

(3) Prior to a written or oral request for extension of time, the requesting party should consult with the obviously affected parties in an effort to obtain their consent. The requesting party should then report to

the Board, in the written or oral request, the communications made with other parties and their positions on the extension request.

(4) The Board will entertain a request for extension of time without compliance with step (3) above only in extreme circumstances and upon a showing by the requesting party of good cause for failure to communicate with other affected parties.

(5) Where the extension request is oral, the requesting party has the affirmative obligation to communicate promptly to other affected parties any Board ruling granting an extension.

This motion is made necessary by several instances where intervenors have made requests by telephone for extensions of time without consulting with Applicants in advance or communicating the approved extension after the conversation with the Board. Applicants, where this has occurred, do not learn of the extension until they receive the intervenor's pleading and read that an extension was sought and granted. We assume the Board is not aware of this situation.

Beyond the fact that ex parte motions deprive the other parties of an opportunity to be heard in opposition or to suggest additional schedule adjustments as a condition of granting the request, the failure to communicate the approved extension is disruptive to Applicants' hearing preparation plans.

The most recent example of this scenario is Joint Intervenor's Findings of Fact on Joint Contentions II(e) and II(c).^{1/} Pursuant to the schedule established by the Board at the environmental hearing, parties were to file proposed findings and reply findings on a simultaneous basis on July 20 and August 1, 1984, with any final reply by Applicants on August 6, 1984. Today, Friday, July 27, Applicants received Joint Intervenor's proposed findings dated July 24. Joint Intervenor's state that "[b]y telephone, Chairman Kelley granted an extension on the filing of these findings until July 24, 1984." Applicants were not aware that this extension request had been made or granted.

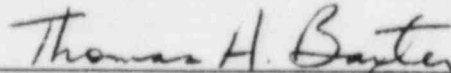
Several problems are caused by this situation. First, Applicants had assumed, since the time had passed, that Joint Intervenor's were not filing proposed findings and that Applicants' attorneys could turn to work other than preparing a reply to that pleading. Second, the simultaneity concept was breached unilaterally and Joint Intervenor's may have had the unfair advantage of reviewing Applicants' and Staff's proposed findings, filed July 20, before filing their own. Third, since no adjustment was made to the schedule for replies, Applicants must now undertake the burden of seeking an

^{1/} The situation has arisen previously with discovery deadlines and during the filing of intervenor's proposed contentions on off-site emergency preparedness.

extension made necessary only by the delay in Joint Intervenor's filing.^{2/}

None of these problems would have arisen if Joint Intervenor had contacted Applicants in advance. We could have considered a delay in our proposed findings to preserve simultaneity, adjusted the reply schedule at the same time, and managed our workloads accordingly. Applicants do not desire to impose rigid or unnecessary formalities onto the proceeding, but the problems discussed above are real and could readily be avoided.

Respectfully submitted,



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Dated: July 27, 1984

^{2/} Since the deadline for replies is Wednesday, August 1, Applicants' counsel must seek the extension on an emergency basis. We learned today that Staff counsel has not yet received Joint Intervenor's proposed findings and was also unaware of the extension.

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
CAROLINA POWER & LIGHT COMPANY)	Docket Nos. 50-440 OL
and NORTH CAROLINA EASTERN)	50-401 OL
MUNICIPAL POWER AGENCY)	
)	
(Shearon Harris Nuclear Power)	
Plant, Units 1 and 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Motion for Issuance of an Order Establishing Procedures for Requesting Extensions of Time" were served this 27th day of July, 1984, by deposit in the U.S. Mail, first class, postage prepaid, to the parties on the attached Service List.

Thomas A. Baxter
Thomas A. Baxter

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
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CAROLINA POWER & LIGHT COMPANY)	Docket Nos. 50-400 CL
and NORTH CAROLINA EASTERN)	50-401 OL
MUNICIPAL POWER AGENCY)	
)	
(Shearon Harris Nuclear Power)	
Plant, Units 1 and 2))	

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