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RELATED CORRESPONDENCE

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November 2, 1984

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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 )  
and NORTH CAROLINA EASTERN ) Docket No. 50-400 OL  
MUNICIPAL POWER AGENCY )  
 )  
(Shearon Harris Nuclear Power )  
Plant) )

APPLICANTS' MOTION FOR SUMMARY  
DISPOSITION OF EDDLEMAN 57-C-3

Carolina Power & Light Company and North Carolina Eastern Municipal Power Agency ("Applicants") hereby move the Atomic Safety and Licensing Board ("Board"), pursuant to 10 C.F.R. § 2.749, for summary disposition in Applicants' favor of Eddleman Contention 57-C-3. As discussed herein, there is no genuine issue as to any fact material to Eddleman Contention 57-C-3, and Applicants are entitled to a decision in their favor on Eddleman Contention 57-C-3 as a matter of law.

This motion is supported by:

1. "Applicants' Statement of Material Facts As To Which There Is No Genuine Issue To Be Heard on Eddleman 57-C-3";
2. "Affidavit of M. Read Bassiouni on Eddleman 57-C-3" ("Bassiouni Affidavit");
3. "Affidavit of Jesse T. Pugh, III on Eddleman 57-C-3" ("Pugh Affidavit");

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4. "Affidavit of Dennis S. Mileti on Eddleman 57-C-3" ("Mileti Affidavit"); and

5. "Applicants' Memorandum of Law In Support of Motions For Summary Disposition of Emergency Planning Contentions," (filed October 8, 1984).

#### I. PROCEDURAL BACKGROUND

Eddleman Contention 57-C-3 was admitted as a contention in this proceeding in the Board's "Memorandum and Order (Further Rulings on Admissibility of Offsite Emergency Planning Contentions Submitted by Intervenor Eddleman)" (June 14, 1984), at 14. As admitted by the Board, Eddleman 57-C-3 contends:

The plan does not have provisions for notification at night, e.g. in the hours between 1 am and 6 am when most people living near the plant would normally be asleep. Nor does the plan assure that they would be timely awakened to take sheltering action, as e.g. on a summer night when many might have windows open or air conditioners on. The plan should provide automatic phone-dialing equipment to transmit an emergency message to all households in the EPZ for Harris, asking people to alert their phoneless neighbors.<sup>1/</sup>

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<sup>1/</sup> The precise language of this contention is the subject of the "Joint Stipulation Codifying Certain Admitted Contentions," which accompanied the "Joint Motion For Approval of Stipulation Codifying Certain Admitted Contentions" (October 12, 1984), presently pending before the Board.

Applicants have served one set of interrogatories and request for production of documents on Mr. Eddleman on the subject of Eddleman 57-C-3. See "Applicants' Emergency Planning Interrogatories and Request For Production of Documents To Intervenor Wells Eddleman (First Set)" (August 9, 1984), at 7-10. "Wells Eddleman's Response to Applicants' 8-09-84 Emergency Planning Interrogatories" was filed September 7, 1984. Mr. Eddleman has served two sets of interrogatories on the Applicants on the subject of Eddleman 57-C-3. See "Wells Eddleman's General Interrogatories to Applicants, et. al. (Ninth Set)" (June 29, 1984), at 9-10; and "Wells Eddleman's General Interrogatories to Applicants, et. al. (Tenth Set)" (August 9, 1984), at 10-13. "Applicants' Response to Wells Eddleman's General Interrogatories to Applicants (Ninth Set)" was filed July 25, 1984; "Applicants' Response to Wells Eddleman's General Interrogatories to Applicants (Tenth Set)" was filed September 7, 1984; and "Applicants' Supplemental Response to Eddleman Interrogatory No. 57-C-3-3(b)" was filed on September 20, 1984. Mr. Eddleman has served two sets of interrogatories on the NRC Staff and FEMA on the subject of Eddleman 57-C-3. See "Wells Eddleman's Interrogatories to NRC Staff and FEMA (Fourth Set)" (June 29, 1984) at 4-5; and "Wells Eddleman's Interrogatories to NRC Staff and FEMA (Fifth Set)" (August 9, 1984), at 5-8. "FEMA Staff Response to Interrogatories Propounded by Intervenor Wells Eddleman" was filed on August 14, 1984, and "FEMA Staff Response to Interrogatories Propounded by

Wells Eddleman" was filed on September 7, 1984. The NRC Staff/FEMA did not file any discovery requests on the subject of Eddleman 57-C-3. The Board-established deadline for filing discovery on the contention was August 9, 1984. Discovery on this contention is, therefore, complete. Accordingly, the instant motion is timely, and Eddleman Contention 57-C-3 is ripe for summary disposition.

## II. GOVERNING LEGAL STANDARDS

### A. Summary Disposition

"Applicants' Memorandum of Law In Support of Motions For Summary Disposition of Emergency Planning Contentions," filed October 8, 1984, is fully applicable to this Motion and is incorporated by reference herein.

### B. Substantive Law

The Commission's emergency planning regulations, at 10 C.F.R. § 50.47(b)(5), require, in relevant part, that:

\* \* \* means to provide early notification \* \* \* to the populace within the plume exposure pathway Emergency Planning Zone have been established.

See also 10 C.F.R. Part 50, Appendix E, § IV.D.3. As noted in footnote 1 to 10 C.F.R. § 50.47, this standard is further addressed by NUREG-0654/FEMA-REP-1, "Criteria For Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness In Support of Nuclear Power Plants" (Rev. 1, November 1980).

NUREG-0654 Criterion E.6 provides, in relevant part:

Each organization shall establish \* \* \* physical means, and the time required for notifying \* \* \* the public within the plume exposure pathway Emergency Planning Zone. (See Appendix 3.)

Appendix 3 to NUREG-0654 sets forth the regulatory acceptance criteria for emergency public Alert and Notification Systems ("ANS"). These criteria establish, in relevant part, that the ANS as designed must provide:

- a) Capability for providing \* \* \* an alert signal \* \* \* to the population on an area wide basis throughout the 10 mile EPZ, within 15 minutes.
- b) The initial notification system will assure direct coverage of essentially 100% of the population within 5 miles of the site.
- c) Special arrangements will be made to assure 100% coverage within 45 minutes of the population who may not have received the initial notification within the entire plume exposure EPZ.

NUREG-0654, at 3-3. However, these criteria are qualified:

The design objective for the system shall be to meet the acceptance criteria of section B of this Appendix [quoted immediately above]. This design objective does not, however, constitute a guarantee that early notification can be provided for everyone with 100% assurance or that the system when tested under actual field conditions will meet the design objective in all cases.

NUREG-0654, at 3-1 (emphasis supplied).

NUREG-0654 establishes numerical design criteria for fixed siren systems, which are discussed in greater detail in



FEMA-43, "Standard Guide For The Evaluation of Alert and Notification Systems For Nuclear Power Plants" (September 1983).<sup>2/</sup> These guidance documents provide that an applicant may -- at its option -- either (a) design its siren system adopting certain population density-dependent assumptions specified in the guidance documents regarding average daytime ambient sound levels, or (b) design its system based on its actual measurements of average daytime ambient sound levels. See NUREG-0654, at 3-10 to 3-12; FEMA-43, at E-6 to E-8. FEMA-43 states unequivocally:

The NUREG-0654/FEMA-REP-1 criteria, as quoted earlier, are satisfied when \* \* \* for those geographical areas to be covered by fixed sirens, either (a) the expected siren sound level generally exceeds 70 dBC where the population density exceeds 2,000 persons per square mile and 60 dBC in other inhabited areas, or (b) the expected siren sound level generally exceeds the average measured daytime ambient sound levels by 10 dB.

FEMA-43, at E-7 to E-8.

The numerical criteria specified in NUREG-0654 and FEMA-43 are based on the regulatory agencies' studies which established that "50 db(a) is a conservative estimate of the average day

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<sup>2/</sup> As FEMA-43 recognizes, applicants are permitted to employ any of a number of means to alert the public. "The means of alert is at the option of the licensee." FEMA-43, at E-3.

time ambient in areas with population below 2000 persons per square mile." See NUREG-0654, at 3-10. The NRC/FEMA guidance contemplates that "10 db above average daytime ambient background should be a target level for the design of an adequate siren system." See NUREG-0654, at 3-8. (The 50 db ambient plus the 10 db differential produces the 60 db criteria for areas of population density under 2000 persons per square mile.) As explained in NUREG-0654:

The 10 db dissonant differential is a conservative use of the 9 db differential which is discussed in FEMA document CPG-1-17 ["Outdoor Warning Systems Guide" (March 1980)]. Research has shown that a person is capable of being alerted by such a differential above or below the background ambient in the case of a predominantly narrow band 300 to 800 Hz emitted by large sirens.

\* \* \* \*

The 10 db differential above daytime ambient is meant to provide a distinguishable signal inside of average residential construction under average conditions. Where special individual cases require a higher alerting signal [as, e.g., in cases of noisy industrial operations (see NUREG-0654, at 3-8)], it should be provided by other means than a generally distributed acoustic signal.

NUREG-0654, at 3-9 (emphasis in the original). Thus, the numerical criteria established in NUREG-0654 and FEMA-43 reflect the regulatory agencies' consideration of sound attenuation inside residential structures.

Finally, "the siren system must be enhanced by other alerting methods" only "[w]here the estimated siren sound level does not generally meet the specified level based either on population density or a 10 dB differential between the measured average ambient sound and estimated siren sound level." FEMA-43, at E-8.

### III. ARGUMENT

Applying the Commission's summary disposition standards to the facts of this case, it is clear that the instant motion for summary disposition of Eddleman Contention 57-C-3 should be granted. The apparent thrust of Mr. Eddleman's contention is that special measures (above and beyond the planned Alert and Notification System of fixed sirens) must be taken to provide for night-time notification of the general public within the plume EPZ; in particular, Eddleman 57-C-3 advocates the procurement and installation of "automatic phone-dialing equipment" for notification of "all households in the EPZ." So framed, the contention is -- in effect -- a thinly-veiled challenge to the regulatory basis of the Commission's emergency planning regulations and guidance on public notification. As FEMA has pointed out to Mr. Eddleman:

Special provisions for notification during normal sleeping hours \* \* \* are not required under FEMA guidelines.



"FEMA Staff Response To Interrogatories Propounded By Intervenor Wells Eddleman" (September 7, 1984) (response to Interrogatory 57-C-3-6(b)). Eddleman 57-C-3 is thus based on a faulty premise.

As discussed in Section II above, NUREG-0654 and FEMA-43 are the basic guidelines for the design of a prompt notification system for alerting the public within the EPZ. These guidelines address the various methods of alerting, such as outdoor warning sirens, tone alert radios, and automatic telephone dialers. See Bassiouni Affidavit, ¶ 3. As explained in footnote 1 above, the means of alert selected (from among the methods discussed in the guidance) is at the option of the licensee. Thus, provided that the means selected is implemented in a manner to meet the regulatory criteria, Mr. Eddleman is not free to argue that another available method might be better. Moreover, federal guidance does not require redundant notification systems for the general public (i.e., siren systems to alert the public when it is outdoors, combined with tone alert radios or automatic telephone dialers to alert the public when it is indoors). See Bassiouni Affidavit, ¶ 3. Certainly, as FEMA has pointed out to Mr. Eddleman:

FEMA guidelines do not require \* \* \* automatic phone-dialing equipment.

"FEMA Staff Response To Interrogatories Propounded By Intervenor Wells Eddleman" (August 14, 1984) (response to General Interrogatory 1).

The federal guidance does not specify criteria for night-time alerting. However, it does establish design criteria for public alert systems based on population density and ambient background noise -- specified as the average measured outdoor daytime (period between 7 a.m. and 10 p.m.) ambient sound levels. (One reason that daytime ambient is specified rather than nighttime ambient is because the ambient noise level during the daytime is substantially higher than the level at nighttime). As discussed in Section II above, the federal guidance provides that a siren system may be designed so that the siren sound level either provides 60/70 dBC acoustic alert coverage (depending on the population density of the area) or provides 10 dBC above the average outdoor daytime ambient sound level. See generally Bassiouni Affidavit, ¶ 4. As noted in Section II, these numerical criteria reflect the regulatory agencies' consideration of sound attenuation inside residential structures. Accord, Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 N.R.C. \_\_\_\_ (September 18, 1984), slip op. at 72 (¶ 29) ("We conclude that \* \* \* the reduced sound levels to people indoors were considered in establishing these FEMA guidelines").

Applicants have selected a fixed siren system to serve as the primary means of public notification in the event of an emergency at the Harris plant. Pugh Affidavit, ¶ 2. The siren system design within the Harris EPZ consists of 62 high-power electromechanical sirens (rated 125 dBC at 100 feet),

strategically placed throughout the EPZ to provide optimal alert coverage to inhabited areas.<sup>3/</sup> Bassiouni Affidavit, ¶ 5. CP&L contracted with Acoustic Technology, Inc. ("ATI") to analyze and evaluate this siren system. Bassiouni Affidavit, ¶ 2. Evaluation of the acoustic coverage of the siren warning system was accomplished using a computer model developed by ATI, <sup>4/</sup> and field measurements of the ambient sound levels. The computer model analysis, performed in accordance with the specifications of FEMA-43, demonstrates that the siren system has been designed to provide the required 60 and 70 dBC public alert coverage for most inhabited areas within the EPZ. Bassiouni Affidavit, ¶ 6. In accordance with the regulatory guidance, Apex and Fuquay-Varina -- the only areas of the EPZ with more

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<sup>3/</sup> It is of no moment that the siren system is not yet fully installed. As the Appeal Board has pointed out:

[I]nstallation and testing of the siren system is precisely the type of matter for which the Commission believes predictive findings can suffice at this stage.

Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), ALAB-732, 17 N.R.C. 1076, 1105 (1983).

<sup>4/</sup> Dr. Bassiouni and his company (ATI) have provided similar technical services to many nuclear utilities. See Bassiouni Affidavit, ¶ 1, and attached statement of professional qualifications. ATI's computer model has proven to be extremely accurate through extensive field testing. See Bassiouni Affidavit, ¶ 6 n. 1; Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 N.R.C. (September 18, 1984), slip op. at 61 (¶ 6). See also Louisiana Power & Light Co. (Waterford Steam Electric Station, Unit 3), LBP-82-100, 16 N.R.C. 1550, 1577 (¶ 24) (1982).

than 2,000 persons per square mile -- are covered by 70 dBC contours. Pugh Affidavit, ¶ 7 n. 1; Bassiouni Affidavit, ¶ 6.

An ambient background noise survey was conducted in accordance with FEMA-43 to document the average measured outdoor ambient sound level in areas located outside the 60 dBC contours, in order to assess the siren system's ability to meet the 10 dB above ambient criterion in areas not covered by 60/70 dBC coverage. Each inhabited area not covered by a 60 dB signal was investigated individually. Outdoor daytime ambient sound levels were measured in the range of 24 dB to 39 dB; the average was therefore conservatively established as 40 dB, and the 50 dBC acoustic coverage of the sirens was computed. This analysis clearly demonstrates that the entire Harris EPZ is covered by a 50 dBC siren contour. Accordingly, all areas outside the 60 dBC contours meet the 10 dB above ambient criterion. Bassiouni Affidavit, ¶ 7. Thus, the proposed siren system complies with the NUREG-0654/FEMA-43 guidelines and the applicable federal regulations for prompt notification of the general public in an emergency. Bassiouni Affidavit, ¶ 8.

Summary disposition of Eddleman 57-C-3 is warranted on the basis of the above-stated facts alone; for, as discussed in Section II above, the siren system must be enhanced by other alerting methods only "[w]here the estimated siren sound level does not generally meet the specified level based either on population density or a 10 dB differential \* \* \* ." FEMA-43, at E-8. In any event, although not required, offsite emergency

response officials would provide additional public notification of an emergency at the Harris plant through an extensive system of mobile alerting. (A similar mobile alerting system was recently discussed, with approval, in Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 N.R.C. \_\_\_\_ (September 18, 1984), slip op. at 64-65 (¶¶ 11-12)). Thus, in all four counties within the Harris EPZ, vehicles with flashing lights, sirens and/or public address systems will be immediately dispatched upon the activation of the fixed sirens, to provide additional public warning by driving predesignated routes within the EPZ. Pugh Affidavit, ¶ 2.

A thorough analysis has been performed to ensure that the entire EPZ will be covered by this mobile alerting system. Zones within the EPZ have been subdivided into subzones within which the road mileage has been measured. The roads have been assigned to specific county agencies, and the routes planned out. Estimates have been made of the time needed for notification, and all routes are being driven to confirm these estimates. The estimates include the time needed for emergency personnel to reach their duty posts to begin the notification process, based upon actual experience. In addition, it has been determined that there are sufficient vehicles and personnel to perform the mobile alerting in a timely manner. This conclusion applies to both daytime and nighttime (1 a.m. to 6 a.m.) conditions. The times for completion of route alerting would range from approximately 20 to 45 minutes, depending on



the subzone.<sup>5/</sup> Pugh Affidavit, ¶¶ 3-16. Of course, because the fixed siren system is the primary means of public notification within the plume EPZ, and because the fixed siren system fully meets the Commission's regulations, the mobile alerting system is not subject to the time limits that the Commission regulations and guidance impose on the primary notification system (here, the fixed siren system). See, e.g., Philadelphia Electric Co. (Limerick Generating Station, Units 1 and 2), Docket Nos. 50-352-OL, 50-353-OL, "Memorandum and Order Ruling On Limerick Ecology Action's Petition For Reconsideration of Rulings On Admissibility of Offsite Emergency Planning Contentions" (May 21, 1984), slip op. at 6 ("route alerting" not subject to regulatory time limits where fixed siren system is primary notification system). Indeed, as observed above, the very performance of mobile alerting is redundant and beyond the requirements of Commission regulations, under the circumstances presented here.

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<sup>5/</sup> Based on FEMA/Regional Assistance Committee ("RAC") comments from the May 15-16, 1984 plan review, resources for route alerting were reassessed and re-allocated (from what is reflected in the offsite plan), to provide the present realistic estimates of notification time. It is important to recognize that determining the "average speed" of a notification vehicle from data such as that presented here would be very misleading, since vehicle speed can vary dramatically over a given route. For example, vehicles notifying rural areas can travel at normal speeds for most of their routes, slowing and stopping only in inhabited areas. Thus, the "average speed" of a notification vehicle in a rural area would be much higher than the "average speed" of such a vehicle in a town (which would travel slowly along its entire route). As noted above, the times provided here are based on the knowledge of the local agencies, and are being confirmed by drivers timing the routes. Pugh Affidavit, ¶ 3.

In addition to the predesignated personnel assigned to perform mobile alerting, each of the four counties has identified additional personnel (with equipment) who would be available to augment the designated mobile alerting personnel, if necessary. Pugh Affidavit, ¶ 17. Further, if public officials determine that only a portion of the EPZ needs to be alerted by the fixed siren system and mobile alerting, the warning times could be reduced by concentrating the identified mobile alerting resources in smaller operational areas. Pugh Affidavit, ¶ 18. The flashing lights, sirens and/or PA systems of mobile alerting vehicles passing by the homes of the EPZ residents would alert most members of the public who might not have heard the fixed sirens. Pugh Affidavit, ¶ 19.

In addition to the two means of direct (formal) notification discussed above (the fixed siren system and mobile alerting), the general public can be expected to be notified of an emergency through a wide variety of indirect means. See generally Mileti Affidavit, ¶¶ 2-8; Pugh Affidavit, ¶¶ 19-20. The existence and efficacy of such means of indirect notification are recognized in Commission case law. See, e.g., Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), LBP-82-46, 15 N.R.C. 1531, 1534-35 (1982); Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-84-37, 20 N.R.C. \_\_\_\_ (September 18, 1984), slip op. at 64 (¶¶ 10,12), 72 (¶ 29). Historically, many people in emergencies have first learned of emergencies from other

members of the public. Mileti Affidavit, ¶ 3. Thus, in the event of an emergency at the Harris plant, those who receive formal, direct notification of an emergency at Harris would seek confirmation of the warning from others who might or might not as yet have learned of the emergency. Mileti Affidavit, ¶ 5. Similarly, in emergencies, neighbors, friends and family -- and even total strangers -- check on one another and offer assistance if it is needed. Accordingly, people who have been awakened in the night and received notification of an emergency at Harris generally can be expected to notify neighbors whose houses are still dark and where no one appears to be stirring. Mileti Affidavit, ¶ 6.

Finally, the high level of activity which would be associated with an emergency at Harris would have a strong "ripple effect," generally alerting members of the public to seek additional information about the events taking place, even if they had not been directly warned by either the fixed sirens, the mobile alerting system, or another member of the public. In other words, the activities of other residents who have already received notification (turning on the lights in their homes, perhaps preparing to evacuate, or even the stream of traffic driving out of the EPZ) would awaken (if necessary) and alert most members of the public who may not yet have been warned, and cause them to seek additional information about what is going on (for example, by turning on the TV or radio, or by talking to neighbors). Mileti Affidavit, ¶ 7. See also Pugh Affidavit, ¶ 19.

Following the initial fixed siren and backup (mobile alerting) warnings, law enforcement and other official vehicles would be in the area to ensure complete evacuation or other protective action, and to provide security. They will be instructed to check premises where no protective action activity is evident. Pugh Affidavit, ¶ 19. Thus, for example, emergency workers would provide individual notification to anyone observed to "have windows open or air conditioners on" when sheltering was recommended.

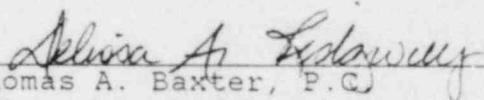
In summary, the fixed siren system serves as the primary public alerting system within the Harris EPZ, and is designed to immediately warn all areas within the EPZ. This system fully meets the Commission's regulatory criteria for emergency public notification. Accordingly, Eddleman Contention 57-C-3 should be dismissed for this reason alone. In any event, each of the four counties within the EPZ has in place a comprehensive plan for mobile alerting to provide additional notification to the general public. In each county, fire, police, sheriff's department, and/or rescue personnel have been designated and have agreed to drive predetermined routes, in vehicles with flashing lights, sirens, and/or public address systems to alert the EPZ residents. The direct means of notification (the fixed siren system and the mobile alerting system) -- combined with the public activity in response to notification -- would assure adequate notification of the general public within the EPZ.

There is no evidence whatsoever to suggest that the Harris fixed siren system will not meet the Commission's requirements for alert and notification systems. Any dissatisfaction with the Commission's requirements which Mr. Eddleman may harbor is simply insufficient to trigger an evidentiary hearing. Accordingly, there is no genuine issue as to any fact material to Eddleman 57-C-3.

#### IV. CONCLUSION

Because there is no genuine issue of material fact to be heard on the issue of Applicants' compliance with the applicable regulatory guidance on emergency public notification, Applicants' Motion For Summary Disposition of Eddleman 57-C-3 should be granted.

Respectfully submitted,

  
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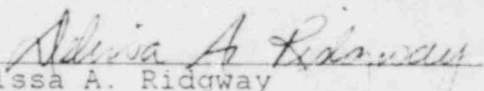
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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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MUNICIPAL POWER AGENCY	)	
	)	
(Shearon Harris Nuclear Power	)	
Plant)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Motion For Summary Disposition of Eddleman 57-C-3," "Applicants' Statement of Material Facts As To Which There Is No Genuine Issue To Be Heard on Eddleman 57-C-3," "Affidavit of M. Reada Bassiouni on Eddleman 57-C-3," "Affidavit of Jesse T. Pugh, III on Eddleman 57-C-3," and "Affidavit of Dennis S. Miletic on Eddleman 57-C-3" were served this 2d day of November, 1984, by deposit in the U.S. mail, first class, postage prepaid, upon the parties listed on the attached Service List.

  
Delissa A. Ridgway

Dated: November 2, 1984

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(Shearon Harris Nuclear Power )  
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