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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

James L. Kelley, Chairman
Dr. James H. Carpenter
Glenn O. Bright

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In the Matter of

CAROLINA POWER & LIGHT COMPANY
and
NORTH CAROLINA EASTERN MUNICIPAL
POWER AGENCY

(Shearon Harris Nuclear Plant)

Docket No. 50-400-OL

(ASLBP No. 82-472-03 OL)

September 18, 1985

ORDER
(Concerning Time, Place and Other Matters
Related to Hearing on Drug Use Contention)

On September 13, 1985, all interested parties participated in a telephone conference call during which the Board denied Applicants' motion for summary disposition of CCNC Contention WB-3. This order confirms the procedures established at that time for hearing the contention and sets the time and place for hearing.

The Board will hold a bifurcated hearing on Contention WB-3. The portions of the contention alleging that drug use is widespread at the Shearon Harris construction site and that the Applicants have failed to control drug use during construction will be heard in the first session commencing September 30, 1985. This first session will include, among

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other things, consideration of the matters discussed by Ms. Burch and Ms. Miriello in their affidavits. Prefiled testimony and numbered exhibits intended for introduction into evidence shall be served on the Board and parties by September 23, 1985. In addition, we ask the parties to make their best efforts to have their testimony and exhibits in the hands of the Board and other parties by that date. Also by September 23, the parties shall serve a list of witnesses for whom they seek a subpoena and a brief description of the anticipated areas of testimony of each such witness. In the event that prefiled testimony for any voluntary witness is not available by September 23, 1985, the sponsoring party shall submit a brief description of that witness' expected testimony and an alternative filing date agreed to by all parties or a showing of good cause why some later filing date should be authorized.

The remaining parts of Contention WB-3, focusing on the possible effects of drug use on safety of construction and the adequacy of the Applicants' corrective actions, will be heard commencing November 12, 1985. Prefiled testimony, exhibits, and subpoena-witness lists shall be served by October 25, 1985.

The first session of the hearing on Contention WB-3 will commence on Monday, September 30, 1985 at 10:00 AM at the Ramada Inn in Apex, N.C. The Board proposes to follow the procedural ground rules that have been in effect throughout this proceeding. The hearing will begin with the Applicants' direct case.

Ruling on CCNC Motion Related to Staff Investigation

In a motion dated September 6, 1985, CCNC requests that it be provided with transcripts of all meetings and telephone conversations between the NRC staff and the Applicants. CCNC further requests that it receive 10 days notice of any meetings between Staff and the Applicants. The Staff and Applicants responded in opposition to this motion during the telephone conference call held on September 13, 1985.

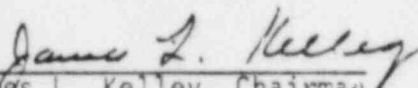
NRC regulations do not require that others be permitted to attend informal meetings between the applicant and the staff. The controlling authority on this issue is Public Service of Indiana, Inc. (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-493, 8 NRC 253, 269 (1978), wherein the Appeal Board stated that "litigants may confer and cooperate with one another; what is proscribed (in the absence of all interested parties) is their discussing matters in litigation with members of the Board." CCNC's motion must be denied.

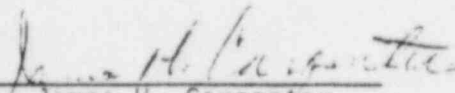
We note that the Staff has provided to the parties the Staff's Policy Statement relating to open meetings. 43 Fed. Reg. 28058. The Policy is to have all meetings conducted by the NRC technical staff as part of the review of license applications open to all parties in the case, and to make reasonable efforts to inform parties of forthcoming meetings. In addition, it is the Staff's policy to provide a summary of unclassified and non-proprietary portions of meetings in the event some parties are unable to attend. Thus, much of what CCNC sought from us should in any event be available to them under the Policy Statement.


We stated in the telephone conference that we would write a letter to the Director of OI concerning the relationship between this case and any investigative efforts his office may undertake into drug use at Shearon Harris. A copy of our letter of today's date is attached.

The text of this order was read to the parties by telephone today.

THE ATOMIC SAFETY AND
LICENSING BOARD


James L. Kelley, Chairman
ADMINISTRATIVE JUDGE


Dr. James H. Carpenter
ADMINISTRATIVE JUDGE


Glenn O. Bright
ADMINISTRATIVE JUDGE

Bethesda, Maryland
September 18, 1985

Attachment: Letter to Mr. Hayes