

625

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

16 December 1985

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

2

'85 DEC 30 A11:20

OFFICE OF GENERAL
DOCKETING & SERVICE
BRANCH

In the Matter of

CAROLINA POWER AND LIGHT CO. et al.
(Shearon Harris Nuclear Power Plant,
Unit 1)

Docket 50-400 OL

ASLBP No. 82-468-01
OL

Wells Eddleman's Objection to Power Engineering article

The Licensing Board in this proceeding admitted an article by Dr. M. Reada Bassiouni into evidence on Contention 57-C-3 (Nighttime Alerting/Notification). Tr. 10225. Because I was not on the conference call where this ruling was made, the Board gave me the opportunity to file written objections where mine differ from those of the North Carolina Attorney General (made at Tr. 10216-10219). I now do so.

First, the article is objectionable because it does NOT, on its face, contradict Dr. Bassiouni's assertions. He stated that one should not rely on informal alerting "heavily ... to validate the effectiveness of nighttime notification." Tr. 9878. (emphasis added) He explained his position thus:

In order to use informal communication as an integral part of the warning system, an intensive public education program would be required. Also, the heavy use of the telephone system brought on by encouraging people to alert their neighbors may hinder other emergency procedures. Tr. 9878.

Neither the need for an intensive public education program, nor the point about heavy use of the phone system is addressed in the Power Engineering article, which does not specifically mention nighttime alerting.

8512310319 851216
PDR ADOCK 05000400
G PDR

DS03

Moreover, the article states, on its face, that:

"Neither the NRC's NUREG-0654 guidelines nor the Federal Emergency Management Agency's evaluation guide provide for consideration of these factors." (Article at 47, its first page. "These factors" include informal alerting and evacuation without sirens, as well as multiple activations of sirens and "existing emergency capabilities for notifying the public."

This cannot impeach Dr. Bassiouni's position on informal alerting. Moreover, as the Attorney General's objection indicates, impeachment cannot be established, nor apparent contradictions resolved, without cross-examination of Dr. Bassiouni. My position is that the Board's failure to call Dr. Bassiouni as either the Attorney General's witness or my witness or its own witness, is simply wrong. But two wrongs cannot make a right and I object to admitting this article as evidence to impeach a witness not called and not given the opportunity to confront the evidence.

I further object to the admission of this article because it is standard practice in NRC proceedings not to admit documents into evidence *(if not stipulated into evidence, or over objection)* without producing the author(s) of those documents for cross-examination.

Thus, assuming for the sake of argument that the document helps the Applicants' case, they should not be able to place it in evidence without producing its author so that I (a party adversely affected by evidence that helps Applicants' case) can cross-examine him. To admit the document without producing its author for cross-examination prejudices my case in this proceeding.

For the above reasons I respectfully request the Board to reverse its decision and upon reconsideration exclude this article from evidence. However, since my proposed findings are due today I will include findings based on the record as it now stands. I believe this is necessary in self-defense.

16 December 1985


Wells Fiddleman