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April 5, 2000

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

OFFICE OF THE
ADMINISTRATIVE

In the Matter of)	
)	
CAROLINA POWER & LIGHT)	Docket No. 50-400-LA
COMPANY)	
(Shearon Harris Nuclear Power Plant))	ASLBP No. 99-762-02-LA

**APPLICANT'S REPLY TO PARTIES' RESPONSES REGARDING
RELEVANCE OF STAFF'S DRAFT DECOMMISSIONING STUDY**

Pursuant to the Licensing Board's March 21, 2000 Memorandum and Order (Requesting Additional Information), Applicant Carolina Power & Light Company ("CP&L" or "Applicant") files this reply to the parties' responses regarding the relevance of the NRC Staff's February 15, 2000 "Draft Final Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Plants" ("Decommissioning Study" or "Study"). All parties filed responses to the Board's request for information on March 29, 2000.¹

All parties agreed in their March 29, 2000 filings that the draft Decommissioning Study is not directly relevant to the late-filed environmental contentions of the Board of Commissioners of Orange County ("BCOC"). See Staff's Response at 1; BCOC's Response at 1; Applicant's Response at 1. This is because "the Draft Study does not address the relationship between degraded-core reactor accidents and the potential for

¹ See "NRC Staff Response to the Atomic Safety and Licensing Board's Request for Additional Information" (March 29, 2000) ("Staff's Response"); "Orange County's Response to Board's Information Request" (March 29, 2000) ("BCOC's Response"); "Applicant's Response to Board's Request Regarding Relevance of Staff's Draft Final Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Plants" (March 29, 2000) ("Applicant's Response").

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severe accidents in fuel pools[,]” which is the “accident scenario of concern to Orange County.” BCOC’s Response at 3. Because the Decommissioning Study is not relevant to BCOC’s environmental contentions, the Board need not consider the draft Study in making its decision regarding admission of BCOC’s late-filed contentions.

Applicant concurs with the Staff’s response that “[t]he contentions proffered do not meet the standards for admission in an NRC proceeding.” Staff’s Response at 2. BCOC has failed to provide the basis with specificity required by the Commission for an admissible contention in this license amendment proceeding, and “[n]othing contained in the Study alters that conclusion.” Id. The Decommissioning Study does not address either BCOC’s accident scenario or the specific design features of the spent fuel pools at the Harris Nuclear Plant (“Harris”). Applicant agrees with the Staff’s conclusion that “[t]here is nothing in the Study that supports BCOC’s assertion that its postulated scenario is probable, and is not remote and speculative for the Harris spent fuel pools.” Id. at 3.

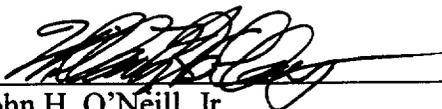
Because the Decommissioning Study is not directly relevant to the issues before this Board, BCOC’s general comments on the Staff’s draft Study are not properly lodged with the Board. Rather, pursuant to the NRC’s notice in the Federal Register, BCOC’s general comments on the draft Study would be more appropriately filed with the “Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.” See 65 Fed. Reg. 8,752 (2000). While several of BCOC’s general comments on the Decommissioning Study appear to be incorrect² or inconsistent,³ in light of all parties’

² For example, BCOC’s assertion that the Decommissioning Study “does not address the risk of a criticality accident that arises from the placement of low-burnup fuel assemblies in a pool,” BCOC’s Response at 3, would appear to be contradicted by the Study’s consideration of criticality risks attendant to “spent fuel

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concurrence that the draft Study is not directly relevant to BCOC's late-filed environmental contentions, such comments need not be considered by this Board.

Respectfully submitted,



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assemblies which have not achieved full burnup potential for extended periods of time [,]" and conclusion that "[t]hese assemblies are more reactive than those assemblies normally stored in the pool which have undergone full burnup." Decommissioning Study at A3-5.

³ For example, Dr. Thompson's "conservative" "interim estimate of 3 years [to preclude ignition] for Harris pools C and D," BCOC's Response at 8, while not supported by any specific facts or bases, would appear to be inconsistent with BCOC's position advocating admission of contentions based on a zirconium fire in spent fuel cooled 5 years or more that will be stored in Harris pools C and D. See Lic. Amend. App., Enc. 7 at 5-2.

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Before the Atomic Safety and Licensing Board

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ADJUDICATIONS STAFF

In the Matter of)	
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CAROLINA POWER & LIGHT)	Docket No. 50-400-LA
COMPANY)	
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicant's Reply to Parties' Responses Regarding Relevance of Staff's Draft Decommissioning Study" were served on the persons listed below by U.S. mail, first class, postage prepaid, and by electronic mail transmission, this 5th day of April, 2000.

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