

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

NRC STAFF'S RESPONSE TO ORANGE COUNTY'S MOTION
FOR EXTENSION OF SCHEDULE FOR DISCOVERY, BRIEFING
AND ORAL ARGUMENT AND REQUEST FOR EXPEDITED CONSIDERATION

On October 13, 2000, Orange County Board of Commissioners (BCOC) filed "Orange County's Motion for Extension of Schedule for Discovery, Briefing, and Oral Argument and Request for Expedited Consideration" (Motion). In its order of October 16, 2000, the Atomic Safety and Licensing Board (Board) required the filing of replies to the Motion by October 17, 2000. For the reason set forth below, the staff of the Nuclear Regulatory Commission (Staff) opposes BCOC's Motion.

In its Motion, BCOC requests a two-week extension of the schedule for completing discovery until November 10, 2000, the filing of written presentations on December 4, 2000, and the holding of oral argument on December 19, 2000. As the basis for its Motion, BCOC cites difficulties obtaining documents from the NRC's Public Document Room, and from Carolina Power & Light (CP&L). See Motion at 4-6.

The Staff is unable to agree to the requested extension for two reasons. First, the Staff's main witness will not be available from November 23, 2000, to December 4, 2000 due to travel out of the country. As the discovery schedule stands now, all parties have approximately thirty days to complete their written presentations. To accommodate BCOC's request, as well as Staff witness availability, the Staff would be required to review documents obtained during the original discovery

period and respond to BCOC's additional discovery requests while attempting to complete to presentation before the Staff's main witness leaves the country. This would place an unreasonable burden on the Staff.

Second, BCOC has failed to demonstrate that its need for further discovery will not be satisfied by the taking of previously scheduled depositions. BCOC asserts that the subjects on which the prospective deponents have been offered are relatively narrow. Motion at 7. BCOC, however, has not described any particular matter on which these deponents lack the requisite knowledge. Consequently, an extension of discovery is not warranted, because BCOC has failed to show good cause based on exceptional circumstances as required by 10 C.F.R. § 2.1111 for an extension of discovery by the presiding officer. For the above reasons, the Staff opposes an extension of time that would require the filing of its presentation on December 4, 2000.

Respectfully submitted,

Robert M. Weisman */RA/*
Counsel for NRC Staff

Dated at Rockville, Maryland
this 17th day of October 2000

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO ORANGE COUNTY'S MOTION FOR EXTENSION OF SCHEDULE FOR DISCOVERY, BRIEFING, AND ORAL ARGUMENT AND REQUEST FOR EXPEDITED CONSIDERATION" in the above-captioned proceeding have been served on the following through deposit in the NRC's internal mail system, or by deposit in the NRC's internal mail system, with copies by electronic mail, as indicated by an asterisk, or by deposit in U.S. Postal Service as indicated by double asterisk, with copies by electronic mail as indicated this 17TH day of October, 2000:

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