

RAS 1066

RELATED CORRESPONDENCE

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF THE
RULING OFFICER
ADJUDICATIVE STAFF

In the Matter of)
)
CAROLINA POWER & LIGHT CO.)
(Shearon Harris Nuclear)
Power Plant))
_____)

Docket No. 50-400 -OLA
ASLBP No. 99-762-02-LA

**ORANGE COUNTY'S THIRD SET OF DISCOVERY REQUESTS
TO THE NRC STAFF**

Pursuant to 10 C.F.R. § 2.720 (h)(ii) and the Board's Memorandum and Order (Granting Request to Invoke 10 C.F.R. Part 2, Subpart K Procedures and Establishing Schedule) (July 29, 1999), Orange County hereby submits its third set of discovery requests to the Nuclear Regulatory Commission ("NRC") Staff, and requests an order by the Presiding Officer that the discovery should be answered within 14 days, as provided by NRC regulations at 10 C.F.R. § 2.740b.¹

Pursuant to the Commission's regulations governing interrogatories to the NRC Staff, the County submits that this discovery is necessary to the proceeding and that answers to the interrogatories are not reasonably obtainable through any other sources. The interrogatories regarding Contention TC-2 are necessary because they seek information regarding the extent to which the Staff is aware of and has evaluated spent fuel pool operating problems that may lead to criticality accidents. They also seek identification of other Staff reviews of spent fuel pool

¹Although the Staff does not appear to be governed by the 14-day limit on inter-party interrogatories, Orange County submits that this is a reasonable requirement in light of the very short 90 day discovery time frame provided by the NRC's discovery rules for Subpart K proceedings. 10 C.F.R. § 2.1111.

expansion applications, in order to compare the Staff's analysis of criticality issues raised at other plants. The interrogatories regarding Contention TC-3 are necessary because they seek information regarding the extent to which the Staff is aware of and has evaluated the types of quality assurance problems that arise when equipment that has not been used for lengthy periods is put back into use, as is the case at Harris. They also seek information regarding other applications for exemptions from quality assurance requirements under 10 C.F.R. § 50.55a, in order to evaluate the manner in which the Staff previously has applied the standard in § 50.55a. In addition to being necessary to the preparation of Orange County's case, none of the requested information is available through any means other than questioning the Staff.

I. INSTRUCTIONS

A. Scope of Discovery. These interrogatories and document production requests cover all information in the possession, custody and control of the NRC Staff, including information in the possession of staff members, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on the NRC Staff's behalf or otherwise subject to its control. The discovery sought by this request encompasses material contained in, or which might be derived or ascertained from, the personal files of NRC Staff employees, representatives, investigators, and agents.

B. Lack of Information. If you currently lack information to answer any Interrogatory completely, please state:

1. The responsive information currently available;
2. The responsive information currently unavailable;
3. Efforts which you intend to make to secure the information currently unavailable; and

4. When you anticipate receiving the information currently unavailable.

C. Supplemental Responses. Each of the following requests is a continuing one pursuant to 10 C.F.R. § 2.740(e) and the County hereby demands that, in the event that at any later date the NRC Staff obtains or discovers any additional information which is responsive to these interrogatories and request for admissions and production of documents, the Staff shall supplement its responses to this request promptly and sufficiently.

Such supplementation shall include, but not be limited to:

1. the identity and location of persons having knowledge of discoverable matters;
2. the identity of each person expected to be called as an expert witness at any hearing, the subject matter on which she/he is expected to testify, and the substance of her/his testimony; and
3. new information which makes any response hereto incorrect.

D. Objections. If you object to or refuse to answer any interrogatory under a claim of privilege, immunity, or for any other reason, please indicate the basis for asserting the objection, privilege, immunity or other reason, the person on whose behalf the objection, privilege, immunity, or other reason is asserted, and describe the factual basis for asserting the objection, privilege, immunity, or other reason in sufficient detail so as to permit the administrative judges in this matter to ascertain the validity of such assertion.

If you withhold any document covered by this request under a claim of privilege, immunity, or for any other reason, please furnish a list identifying each document for which the privilege, immunity, or other reason is asserted, together with the following information: date, author and affiliation, recipient and affiliation, persons to whom copies were furnished and the

job title and affiliation of any such persons, the subject matter of the documents, the basis for asserting the privilege, immunity, or other reason, and the name of the person ++on whose behalf the privilege, immunity, or other reason is asserted.

E. Estimates. Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

II. DEFINITIONS

Each of the following definitions, unless otherwise indicated, applies to and shall be a part of each interrogatory and request for production which follows:

1. "The NRC Staff" refers to the staff of the U.S. Nuclear Regulatory Commission, its representatives, attorneys, and contractors, or other persons directly or indirectly employed or retained by the NRC Staff, or anyone else acting on its behalf or otherwise subject to its control.

2. The term "documents" means the originals as well as copies of all written, printed, typed, recorded, graphic, photographic, and sound reproduction matter however produced or reproduced and wherever located, over which you have custody or control or over which you have the ultimate right to custody or control. By way of illustration, but not limited thereto, said term includes: records, correspondence, telegrams, telexes, wiring instructions, diaries, notes, interoffice and intraoffice communications, minutes of meetings, instructions, reports, demands, memoranda, data, schedules, notices, recordings, analyses, sketches, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, charts, working papers, computer tapes, computer printout sheets, information stored in computers or other data storage or processing equipment, microfilm, microfiche, corporate minutes, blueprints, drawings,

contracts and any other agreements, rough drafts, and all other writings and papers similar to any of the foregoing, however designated by you. If the document has been prepared and several copies or additional copies have been made that are not identical (or are no longer identical by reason of the subsequent addition of notations or other modifications), each non-identical copy is to be construed as a separate document.

3. "All documents referring or relating to" means all documents that in whole or in part constitute, contain, embody, reflect, identify, state, interpret, discuss, describe, explain, apply to, deal with, evidence, or are in any way pertinent to a given subject.

4. The words "describe" or "identify" shall have the following meanings:

(a) In connection with a person, the words "describe" or "identify" mean to state the name, last known home and business address, last known home and business telephone number, and last known place of employment and job title;

(b) In connection with a document, the words "describe" or "identify" mean to give a description of each document sufficient to uniquely identify it among all of the documents related to this matter, including, but not limited to, the name of the author of the document, the date, title, caption, or other style by which the document is headed, the name of each person and entity which is a signatory to the document, the date on which the document was prepared, signed, and/or executed, the person or persons having possession and/or copies thereof, the person or persons to whom the document was sent, all persons who reviewed the document, the substance and nature of the document, the present custodian of the document, and any other information necessary to adequately identify the document;

(c) In connection with an entity other than a natural person (e.g., corporation, partnership, limited partnership, association, institution, etc.), the words "describe" or "identify"

mean to state the full name, address and telephone number of the principal place of business of such entity.

(d) In connection with any activity, occurrence, or communication, the words “describe” or “identify” mean to describe the activity, occurrence, or communication, the date of its occurrence, the identify of each person alleged to have had any involvement with or knowledge of the activity, occurrence, or communication, and the identity of any document recording or documenting such activity, occurrence, or communication.

5. “Date” shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation thereof (including by relationship to other events), and the basis for such approximation.

6. The word “discussion” shall mean communication of any kind, including but not limited to, any spoken, written, or signed form of communication.

7. The word “person” shall include any individual, association, corporation, partnership, joint venture, or any other business or legal entity.

8. Words herein of any gender include all other genders, and the singular form of words encompasses the plural.

9. The words “and” and “or” include the conjunctive “and” as well as the disjunctive “or” and the words “and/or.”

10. The word “misplacement,” as applied to spent fuel, refers to the placement of fuel in a position other than the one intended.

III. INTERROGATORIES

A. TECHNICAL CONTENTION 2 (Criticality Safety):

INTERROGATORY NO. 1: Please describe in what circumstances, if any, and under

what regulatory requirements, if any, the NRC requires reporting of the misplacement of fresh or spent fuel in spent fuel storage pools. If such reporting is not required, please explain why not.

INTERROGATORY NO. 2: Does the NRC keep records, data, or documents that describe the practical experience of nuclear power plant operators with fresh or spent fuel misplacement in spent fuel storage pools? If so, please confirm that you have provided all relevant documents pursuant to Document Production Request No. 8 of Orange County's Second Set of Document Requests to the NRC Staff (September 29, 1999). If not, please explain why not.

INTERROGATORY NO. 3: Has the NRC performed or obtained any analysis or evaluation of the practical experience of nuclear power plant operators with fresh or spent fuel misplacement in spent fuel storage pools? If so, please confirm that you have provided all relevant documents pursuant to Document Production Request No. 9 of Orange County's Second Set of Document Requests to the NRC Staff (September 29, 1999). If not, please explain why not.

INTERROGATORY NO. 4: Has the NRC performed or obtained any analysis of the probability and/or consequences of misplacing fresh or spent fuel in spent fuel storage pools? If so, please confirm that you have provided all relevant documents pursuant to Document Production Request No. 10 of Orange County's Second Set of Document Requests to the NRC Staff (September 29, 1999). If not, please explain why not.

INTERROGATORY NO. 5: Under what circumstances, if any, and under what regulatory requirements, if any, does the NRC require the reporting of errors in controlling boron concentration in the water of spent fuel storage pools? If not, please explain why not.

INTERROGATORY NO. 6: Does the NRC keep records, data, or documents that

describe the practical experience of nuclear power plant operators with control of boron concentrations in spent fuel storage pools? If so, please confirm that you have provided all relevant documents pursuant to Document Production Request No. 11 of Orange County's Second Set of Document Requests to the NRC Staff (September 29, 1999). If not, please explain why not.

INTERROGATORY NO. 7: Has the NRC performed or obtained any analysis or evaluation of nuclear power plant operators' experience with controlling boron concentrations in spent fuel storage pools? If so, please confirm that you have provided all relevant documents pursuant to Document Production Request No. 13 of Orange County's Second Set of Document Requests to the NRC Staff (September 29, 1999). If not, please explain why not.

INTERROGATORY NO. 8: Does the NRC keep records, data, or documents that describe the practical experience of nuclear power plant operators with events or processes that affect the boron loading in the walls of racks in spent fuel pools? If so, please confirm that you have provided all relevant documents pursuant to Document Production Request No. 12 of Orange County's Second Set of Document Requests to the NRC Staff (September 29, 1999). If not, please explain why not.

INTERROGATORY NO. 9: Has the NRC performed or obtained any analysis of nuclear power plant operators' experience with events or processes that affect the boron loading in the walls of racks in spent fuel storage pools? If so, please confirm that you have provided all relevant documents pursuant to Document Production Request No. 14 of Orange County's Second Set of Document Requests to the NRC Staff (September 29, 1999). If not, please explain why not.

INTERROGATORY NO. 10: Has the NRC performed or obtained any analysis of the

probability and/or consequences of potential accidents resulting from improper boron concentration in the water in spent fuel storage pools or improper boron loadings in the rack walls? If so, please confirm that you have provided all relevant documents pursuant to Document Production Request No. 15 of Orange County's Second Set of Document Requests to the NRC Staff (September 29, 1999). If not, please explain why not.

INTERROGATORY NO. 11: Has the NRC performed or obtained any analysis of the probability and/or consequences of potential criticality events in spent fuel storage pools, involving fresh and/or spent fuel? If so, please confirm that you have provided all relevant documents pursuant to Document Production Request No. 16 of Orange County's Second Set of Document Requests to the NRC Staff (September 29, 1999). If not, please explain why not.

INTERROGATORY NO. 12: Please identify, by subject nuclear plant, docket number, and date of issuance, all NRC Safety Evaluation Reports issued within the last ten years which approve applications for the expansion of the licensed capacity of spent fuel storage pools.

INTERROGATORY NO. 13: Please identify, by subject nuclear plant, docket number, and date of issuance, all NRC Safety Evaluation Reports issued within the last ten years which deny applications for the expansion of the licensed capacity of spent fuel storage pools.

INTERROGATORY NO. 14: Please identify, by subject nuclear plant, docket number, and date of application, all pending license amendment applications for the expansion of spent fuel pool storage capacity.

B. TECHNICAL CONTENTION 3 (Quality Assurance)

INTERROGATORY NO. 1: Please identify, by subject nuclear plant, docket number, and date of submittal, all license amendment applications or restart requests, submitted within the

last ten years, requesting NRC approval of the use of piping and/or equipment that (a) would carry water or steam during operation and (b) had been out of use for at least two years.

INTERROGATORY NO. 2: Please describe the disposition of all applications or requests identified in response to Interrogatory No. 1 above, and provide the date of any Safety Evaluation Report or other safety evaluation issued by the NRC.

INTERROGATORY NO. 3: In addition to any applications or requests identified in response to Interrogatory No. 1 above, please identify, by subject nuclear plant, docket number, and date of submittal, all cases in which a licensee or the NRC Staff raised an Unreviewed Safety Question or enforcement issue with respect to the use or proposed use of piping and/or equipment that (a) would carry water or steam during operation and (b) had been out of use for at least two years.

INTERROGATORY NO. 4: Please describe the disposition of all Unreviewed Safety Questions or enforcement issues identified in response to Interrogatory No. 3 above, and provide the date of any safety analysis or evaluation prepared by the NRC.

INTERROGATORY NO. 5: Please identify, by subject nuclear plant, docket number, and date of submittal, all cases within the last ten years in which, pursuant to 10 C.F.R. § 50.55a(a)(3), the Director of the Office of Nuclear Reactor Regulation has approved a proposed alternative to the requirements of paragraphs (c), (d), (e), (f), and (g) of 10 C.F.R. § 50.55a.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Diane Curran". The signature is fluid and cursive, with the first name "Diane" written in a larger, more prominent script than the last name "Curran".

Diane Curran

Harmon, Curran, Spielberg, & Eisenberg, L.L.P.

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Power Plant))

OFFICE OF THE
GENERAL COUNSEL
ADJUDICATIONS
STAFF

Docket No. 50-400 -OLA
ASLBP No. 99-762-02-LA

CERTIFICATE OF SERVICE

I certify that on October 17, 1999, copies of the foregoing ORANGE COUNTY'S THIRD SET OF DISCOVERY REQUESTS TO THE NRC STAFF and CORRECTED NOTICE OF DEPOSITION OF DR. STANLEY E. TURNER were served on the following by e-mail and/or first class mail as indicated below:

Secretary of the Commission
Attention: Rulemakings and Adjudications
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In addition, a copy of Dr. Turner's deposition notice was served on him at the following address:

Holtec International
230 Normandy Circle East
Palm Harbor, FL 34683



Diane Curran