

RELATED CORRESPONDENCE

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

OFFICE OF THE SECRETARY  
RULES AND PRACTICE  
ADJUDICATION DIVISION

\_\_\_\_\_  
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 FIRST SET OF DISCOVERY REQUESTS TO NRC STAFF,  
INCLUDING REQUEST FOR AN ORDER DIRECTING NRC STAFF  
TO ANSWER CERTAIN DISCOVERY REQUESTS**

Pursuant to 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 first set of discovery requests to the Nuclear Regulatory Commission ("NRC") Staff. The Staff has agreed to answer Orange County's General Interrogatories in Section III.A below. With respect to the document production requests in Sections III.B and IV.A, Orange County requests that the Board order the NRC Staff to respond, under 10 C.F.R. §§ 2.720 and 2.744, because the requested discovery cannot reasonably be obtained through any means other than these requests. These requests seek documents that the Staff has generated, relied on or considered in its review of the Harris license amendment application. Responsive documents are not necessarily filed in the Public Document Room ("PDR"). Even if they were, it would be difficult to obtain an assuredly comprehensive set of the relevant documents in a PDR search.

Orange County also requests that the Board delay ruling on its request until Friday, September 24, 1999. On or before that date, the NRC Staff has agreed to inform the County whether it will voluntarily respond to the discovery without an order by the Board. By Friday,

Orange County will inform the Board whether a ruling is necessary.

**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."

### **III. GENERAL DISCOVERY**

#### **A. GENERAL INTERROGATORIES**

Pursuant to agreement between Orange County and the Staff, these general interrogatories apply to both Orange County admitted contentions; are in addition to the fifteen interrogatories per contention allowed by the Board's July 29, 1999, Memorandum and Order; and are continuing in accordance with 10 CFR § 2.740(e) through the end of the discovery period, October 31, 1999, as established in the Board's July 29, 1999 Memorandum and Order.

GENERAL INTERROGATORY NO. 1. State the name, business address, and job title of each person who supplied information for responding to these interrogatories, requests for admission, and requests for the production of documents. Specifically note for which interrogatories and requests for admissions each such person supplied information. For requests for production, note for which contention each such person supplied information.

GENERAL INTERROGATORY NO. 2. For each admitted Orange County contention, give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person whom the NRC Staff expects to provide sworn affidavits and declarations in the written filing for the Subpart K proceeding described in the Board's July 29, 1999, Memorandum and Order and the general subject matter on which each person is expected to provide sworn affidavits and declarations for the written filing. For purposes of answering this interrogatory, the educational and scientific experience of expected affiants and declarants may be provided by a resume of the person attached to the response.

GENERAL INTERROGATORY NO. 3. For each admitted Orange County contention, identify each expert on whom the NRC Staff intends to rely on in its written filing for the Subpart K proceeding described in the Board's July 29, 1999 Memorandum and Order, the general subject matter on which each expert is expected to provide sworn affidavits and declarations for the written filing, the qualifications of each expert whom the NRC Staff expects to provide sworn affidavits and declarations for the written filing, a list of all publications authored by the expert within the preceding ten years, and a listing of any other cases in which the expert has testified as an expert at a trial, hearing or by deposition within the preceding four years.

**B. GENERAL DOCUMENT REQUESTS**

The County requests the Staff to produce the following documents directly or indirectly within its possession, custody or control.

REQUEST NO 1. All documents in your possession, custody or control that are identified, referred to or used in any way in responding to all of the above general interrogatories and the following interrogatories and requests for admissions relating to specific contentions.

REQUEST NO. 2. All documents in your possession, custody or control relevant to each Orange County admitted contention, and to the extent possible, segregated by contention and separated from already produced documents.

REQUEST NO. 3. All documents (including experts' opinions, workpapers, affidavits, and other materials used to render such opinion) supporting or otherwise relating to testimony or evidence that you intend to use in your Subpart K presentation and/or the hearing on each Orange County admitted contention.

#### **IV. SPECIFIC DISCOVERY**

##### **A. SPECIFIC DOCUMENT REQUESTS**

Please produce the following documents:

##### **TECHNICAL CONTENTION 2 (Criticality Safety):**

REQUEST NO. 1. All documents reviewed or prepared by the Staff in connection with the issuance of its April 29, 1999, Request for Additional Information to Carolina Power & Light ("CP&L") on criticality safety issues.

REQUEST NO. 2. All documents reviewed or prepared by the Staff in connection with its evaluation of CP&L's response to the April 29, 1999, RAI.

REQUEST NO. 3. All documents related to the NRC Staff's review of CP&L's compliance with General Design Criterion 62 with respect to the activation of spent fuel storage pools C and D.

REQUEST NO. 4. All documents related to the NRC Staff's review of CP&L's compliance with Draft Regulatory Guide 1.133 with respect to the activation of spent fuel storage pools C and D.

REQUEST NO. 5. All documents evaluating the CP&L proposal for maintaining



criticality safety in pools C and D in comparison with similar administrative controls at other nuclear power plants.

REQUEST NO. 6. All documents evaluating the potential for misplacement of fuel at the Harris nuclear power plant, including both fresh and spent fuel, and including all movements from the time the fuel arrives on the site.

REQUEST NO. 8. All documents addressing the probability and/or consequences of criticality in the Harris spent fuel pools.

REQUEST NO. 9. All documents evaluating CP&L's proposal for control of criticality through the addition of boron to the spent fuel pools, including but not limited to documents evaluating the CP&L proposal in light of experience at other plants.

**TECHNICAL CONTENTION 3 (QA):**

REQUEST NO. 1. All documents reviewed or prepared by the Staff in connection with the issuance of its March 24, 1999, RAI to CP&L on quality assurance issues.

REQUEST NO. 2. All documents reviewed or prepared by the Staff in connection with its evaluation of CP&L's response to the March 24, 1999, RAI.

REQUEST NO. 3. All documents related to the NRC Staff's review of CP&L's compliance with NRC quality assurance regulations with respect to the piping to be used for Harris spent fuel storage pools C and D.

REQUEST NO. 4. All documents related to the NRC Staff's review of the adequacy of CP&L's Alternative Plan for assuring the safety of piping for spent fuel storage pools C and D.

REQUEST NO. 5. All documents addressing the history of layup and storage of all piping and equipment (including pumps and heat exchangers) that was intended for Harris Unit 2 and will be used for pools C and D. This request includes but is not limited to documents related

to inspection and testing of the piping and equipment.

REQUEST NO. 6. All documents addressing the testing of water that has been present in stored piping and equipment.

REQUEST NO. 7. Documents addressing the nature and findings of remote camera inspections and other inspections that have been carried out to date as part of preparations for activating pools C and D.

REQUEST NO. 8. All documents addressing the potential risks or adverse health or economic effects of deficiencies in existing piping and equipment.

REQUEST NO. 9. All documents addressing the schedule of activities that are planned for activating pools C and D. This request includes but is not limited to activities that relate to piping and equipment for pools C and D.

Respectfully submitted,



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September 20, 1999

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

DOCKETED  
USNRC

99 SEP 22 P 4:21

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

OFFICE OF  
RULEMAKING AND  
ADJUDICATION

**CERTIFICATE OF SERVICE**

I certify that on September 20, 1999, copies of the foregoing ORANGE COUNTY'S FIRST SET OF DISCOVERY REQUESTS TO NRC STAFF, INCLUDING REQUEST FOR AN ORDER DIRECTING NRC STAFF TO ANSWER CERTAIN DISCOVERY REQUESTS were served on the following by e-mail and/or first class mail as indicated below:

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