

RELATED CORRESPONDENCE

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September 24, 1999
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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-LA
COMPANY)	
(Shearon Harris Nuclear Power Plant))	ASLBP No. 99-762-02-LA

APPLICANT'S FIRST SET OF DISCOVERY REQUESTS DIRECTED TO THE NUCLEAR REGULATORY COMMISSION STAFF

Pursuant to 10 C.F.R. § 2.744 and the Board's July 29, 1999 Memorandum and Order (Granting Request to Invoke 10 C.F.R. Part 2, Subpart K Procedures and Establishing Schedule), Applicant Carolina Power & Light Company ("CP&L") hereby requests the Nuclear Regulatory Commission ("NRC") Staff ("the Staff") to answer the following General Interrogatories within 14 days after service of this discovery request and to produce the documents requested below within 30 days after service of this discovery request.

The general interrogatories included in this request are those agreed to between the Staff and the Applicant on August 17, 1999. The general document request included herein requests that the Applicant have access to those documents, if any, that the Staff produces to the Board of Commissioners of Orange County ("BCOC") pursuant to BCOC's September 20, 1999 discovery request to the Staff. Pursuant the Commission's requirements on requests for production of records and documents from the Staff, the two

specific document requests included in this request seek only documents that are directly relevant to the two admitted contentions and are not reasonably obtainable from the NRC's Public Document Room.

I. DEFINITIONS AND INSTRUCTIONS

1. Scope of Discovery. These interrogatories and document production requests cover all information in the possession, custody and control of the Staff, including information in the possession of directors, branch chiefs, managers, employees, agents, representatives, investigators, attorneys, or other persons directly or indirectly employed or retained by them, or anyone else acting on the 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 members of the NRC Staff, including all directors, branch chiefs, managers, employees, agents, representatives, investigators, attorneys, or other persons directly or indirectly employed or retained by them, working with them, or acting on the Staff's behalf.

2. 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 identified but currently unavailable; and
3. When you anticipate receiving such information currently unavailable.

3. Supplementation of Responses. Each of the following requests is a continuing one by agreement of the parties and pursuant to 10 C.F.R. § 2.740(e)(3). CP&L thereby

requests that, in the event prior to the close of discovery on October 31, 1999, as directed by the Board, the Staff obtains or discovers any additional information which is responsive to any discovery requests, the Staff promptly supplement its responses to these requests. The supplementation duties of 10 C.F.R. § 2.740(e)(1) (persons having knowledge and experts) and 10 C.F.R. § 2.740(e)(2) (known incorrect responses) are continuing and unaffected by the parties' agreement.

4. Objections. In the event that the Staff objects to any interrogatory, request for admission, or document production request under claim of privilege, immunity, or for any other reason, please indicate the basis for asserting the objection, the person on whose behalf the objection is asserted, and describe the factual basis for asserting the objection in sufficient detail so as to permit CP&L to consider, and the Board to ascertain, the validity of such objection.

5. Privilege Log. If you withhold any document covered by this request under a claim of privilege, immunity, or for any other reason, please furnish a privilege log 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 their affiliation, the subject matter of the document, 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.

6. 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.

7. Nuclear Regulatory Commission Staff. "The NRC Staff," "the Staff," "you," and "your" means any branch, department, division, or other organized entity of the Staff, including its directors, branch chiefs, managers, employees, agents, representatives, investigators, attorneys, or other persons directly or indirectly employed or retained by the Staff, or anyone else acting on the Staff's behalf or otherwise subject to its control.

8. Documents. The term "documents" means the complete original or a true, correct, and complete copy and any non-identical copies, whether different by reason of any notation or otherwise, of any written or graphic matter of any kind, no matter how produced, recorded, stored, or reproduced (including electronic, mechanical, or electronic records or representation of any kind) including, but not limited to, any writing, letter, telegram, facsimile, meeting minutes, meeting notes, memorandum, statement, book, record, survey, map, study, chart, tabulation, graph, tape, data sheet, data processing card, printout, microfilm or microfiche, interoffice and intraoffice communications, instructions, reports, demands, schedules, notices, recordings, analyses, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, indices, notebooks, personal notes, diary entries, e-mail, notes of interview, communication, contracts, any other agreements, data compilations, and all other writings and papers similar to any of the foregoing, however designated by you. The phrase "data compilation" includes, but is not limited to, any material stored on or accessible through a

computer or other information storage or retrieval system, including videotapes, computer files and disks, and tape recordings. 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.

9. Date. "Date" means the specific 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.

10. Discussion. "Discussion" means communication of any kind, including but not limited to, any spoken, written, or signed form of communication.

11. Person. "Person" means any individual, association, group, corporation, partnership, joint venture, or any other business or legal entity.

12. All Documents. "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.

13. And and Or. "And" and "or" include the conjunctive "and" as well as the disjunctive "or" and the words "and/or."

14. Describe or Identify. 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 business address, last known 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 and title of the document, and identification numbers applicable to the document, the name of each person or entity signing or approving the document, the date on which the document was prepared, signed, and/or executed, 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.

II. GENERAL INTERROGATORIES

Pursuant to agreement between the Staff and the Applicant, these general interrogatories apply to both of the 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 C.F.R. § 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 contention, give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person whom the 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 contention, identify each expert on whom the 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 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.

III. GENERAL DOCUMENT PRODUCTION REQUEST

The Applicant requests the Staff to produce the following documents:

GENERAL REQUEST NO 1. All documents requested by, and provided to, the Board of Commissioners of Orange County ("BCOC") pursuant to BCOC's September 20, 1999 "First Set of Discovery Requests to NRC Staff . . ."

IV. SPECIFIC DOCUMENT PRODUCTION REQUESTS

The Applicant requests the Staff to produce the following documents:

A. CONTENTION 2 - Criticality Prevention

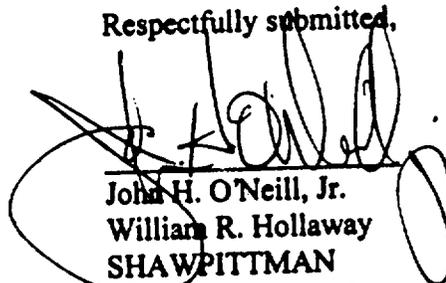
REQUEST NO 1. All documents relating to the NRC's approval of the use of credit for enrichment and burnup limits for criticality prevention in spent fuel pools at

commercial nuclear power reactors licensed under 10 C.F.R. Part 50 including, but not limited to, files in the possession of Laurence I. Kopp.

B. CONTENTION 3 – Quality Assurance

REQUEST NO 1. All documents relating to the application and implementation of the standard for approval of alternative plans as defined in 10 C.F.R. § 50.55a(a)(3)(i) and (ii).

Respectfully submitted,



John H. O'Neill, Jr.
William R. Hollaway
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2300 N Street, N.W.
Washington, D.C. 20037-1128
(202) 663-8294
Counsel For CAROLINA POWER &
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Of Counsel:
Steven Carr
Legal Department
CAROLINA POWER & LIGHT
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411 Fayetteville Street Mall
Post Office Box 1551 – CPB 13A2
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(919) 546-4161

Dated: September 24, 1999

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**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Atomic Safety and Licensing Board**

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In the Matter of)

CAROLINA POWER & LIGHT)
COMPANY)
(Shearon Harris Nuclear Power Plant))

Docket No. 50-400-LA

ASLBP No. 99-762-02-LA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicant's First Set of Discovery Requests Directed to the Nuclear Regulatory Commission Staff," dated September 24, 1999, was served on the persons listed below by U.S. mail, first class, postage prepaid, and by electronic mail transmission, and this 24th day of September, 1999.

G. Paul Bollwerk, III, Esq., Chairman
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: gpb@nrc.gov

Frederick J. Shon
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: ajs@nrc.gov

Dr. Peter S. Lam
Administrative Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: psl@nrc.gov

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and Adjudications
Staff
e-mail: hearingdocket@nrc.gov
(Original and two copies)

Susan L. Uttal, Esq.
Richard G. Bachmann, Esq.
Office of the General Counsel
Mail Stop O-15 B18
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
e-mail: harris@nrc.gov

Diane Curran, Esq.
Harmon, Curran, Spielberg &
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* Adjudicatory File
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

James M. Cutchin, V, Esq.
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
e-mail: jmc3@nrc.gov

Pursuant to the requirements of 10 C.F.R. § 2.744(a), a copy of the foregoing
“Applicant’s First Set of Discovery Requests Directed to the Nuclear Regulatory
Commission Staff,” dated September 24, 1999, was also served on the person listed
below by U.S. mail this 24th day of September, 1999.

* William D. Travers
Executive Director for Operations
Mail Stop O-16 E15
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

* by mail only


William R. Hollaway

ShawPittman

A Law Partnership Including Professional Corporations

JOHN H. O'NEILL, JR.
202.663.8148
john.o'neill@shawpittman.com

September 24, 1999

William D. Travers
Executive Director for Operations
Mail Stop O-16 E15
U.S. Nuclear Regulatory Commission
Washington, DC 20555

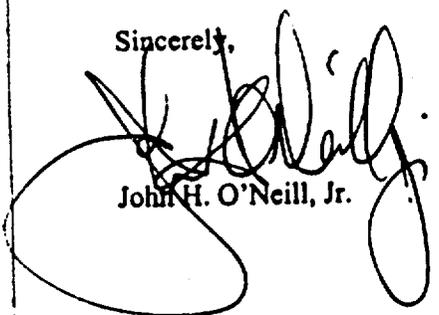
Re: Discovery on the NRC Staff in the Shearon Harris License Amendment Proceeding

Dear Mr. Travers:

We represent Carolina Power & Light Company in the proceeding before the Atomic Safety and Licensing Board to amend the Shearon Harris Nuclear Power Plant operating license to activate two existing spent fuel pools. We are serving a copy of the attached "Applicant's First Set of Discovery Requests Directed to the Nuclear Regulatory Commission Staff," dated September 24, 1999, on you as required by the Commission's regulations in 10 C.F.R. § 2.744(a). NRC staff counsel for this proceeding are Susan L. Uttal, Esq. and Richard G. Bachmann, Esq.

If you have any questions regarding this matter, please contact me at (202)663-8148.

Sincerely,



John H. O'Neill, Jr.

Attachment

cc: Service List