

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
Progress Energy Carolinas, Inc.)	Docket Nos. 52-022 COL
)	52-023 COL
(Shearon Harris Nuclear Power Plant,)	
Units 2 and 3))	

**PROGRESS ENERGY’S MOTION TO STAY
THE SCHEDULE FOR SUMMARY DISPOSITION MOTIONS**

On October 30, 2008, the Atomic Safety and Licensing Board (“Board”) in the above captioned dockets issued an order admitting Contention TC-1 of the North Carolina Waste Awareness and Reduction Network’s (“NC WARN”) Petition for Intervention and Request for Hearing and instructing the NRC Staff (“Staff”) and Progress Energy Carolinas, Inc. (“Progress”) as follows:

Since . . . some of the particular asserted omissions may well be in respect of information which does not need to be in the COLA, Staff and Applicant are instructed that they may file, within 30 days of the date of this Order, motions for summary disposition of any of such asserted omissions. Any such Motion shall be accompanied by a legal memorandum explaining the basis for that conclusion and such affidavits of experts as shall be necessary to support the Motion. In the event that Staff or Applicant believes that all of such asserted omissions relate to subject matter which does need to be in the COLA, Staff or Applicant, as relevant, shall advise the other parties of that conclusion no later than the due date for such motions for summary disposition.¹

Progress intends to file an appeal with the Commission of the Board’s decision admitting Contention TC-1. Thus, Progress respectfully requests that the Board stay the schedule for filing motions for summary disposition until 30 days after the date of the Commission’s decision on appeal, if the Board’s order still stands and motions for summary disposition remain relevant.

¹ Progress Energy Carolinas, Inc. (Shearon Harris Nuclear Power Plant, Units 2 and 3), LBP-08-21, 68 N.R.C. ___, slip op. at 40 (Oct. 30, 2008).

Pursuant to 10 C.F.R. § 2.323(b), counsel for Progress has contacted counsel for the Staff and NC WARN regarding this motion. The Staff affirmatively supports the motion and has advised Progress that the Staff is considering filing its own appeal of the Board's decision. NC WARN does not oppose this motion.

Because the Board's admission of Contention TC-1 will be appealed to the Commission, it is appropriate to stay further action by the Board on Contention TC-1, pending a decision by the Commission. Preparation of a motion for summary disposition in this proceeding, which would include a detailed analysis of the AP1000 Design Control Document and preparation of affidavits, would be an unnecessary expenditure of significant resources when a decision by the Commission might make such preparation irrelevant. Deferral of the schedule for motions for summary disposition would conserve the resources of all parties, as well as those of the Board. As indicated above, all parties to this proceeding believe a stay is in their best interest.

For the reasons stated above, Progress respectfully requests a stay of the schedule for motions for summary disposition until 30 days after the date on which the Commission issues a final order on Progress's appeal, provided that motions for summary disposition are still appropriate at that time.

Respectfully submitted,

/Signed electronically by John H. O'Neill, Jr./
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Dated: November 4, 2008

Counsel for Progress Energy Carolinas, Inc.

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
Carolina Power & Light Company)	Docket Nos. 52-022 COL
)	52-023 COL
(Shearon Harris Nuclear Power Plant,)	
Units 2 and 3))	

CERTIFICATE OF SERVICE

I hereby certify that “Progress Energy’s Motion to Stay the Schedule for Summary Disposition Motions,” dated November 4, 2008, was provided to the Electronic Information Exchange for service to those individuals on the service list in this proceeding, this 4th day of November 2008.

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/Signed electronically by Stefanie M. Nelson/

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