

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

Before Administrative Judges:

Paul B. Abramson, Chairman  
Dr. William E. Kastenberg  
Dr. Michael F. Kennedy

In the Matter of  
  
PROGRESS ENERGY CAROLINAS, INC.  
  
(Shearon Harris Nuclear Power Plant, Units 2  
and 3)

Docket Nos. 52-022-COL & 52-023-COL

ASLBP No. 08-868-04-COL-BD01

November 14, 2008

ORDER

(Granting Joint Motion to Suspend Obligations)

On October 30, 2008, this Board issued a ruling on contention admissibility, admitting part of contention TC-1 and setting forth a schedule for summary disposition motions.<sup>1</sup> On November 5, 2008, we granted a motion to stay the required date for submission of summary disposition motions until 30 days after the Commission's decision on Progress Energy's appeal.<sup>2</sup>

On November 13, the NRC Staff (Staff), Progress Energy (Applicant), and the North Carolina Waste Awareness and Reduction Network (NC-WARN) filed a joint motion to suspend any obligations of the parties concerning disclosures under 10 C.F.R. § 2.336, the Staff's role under 10 C.F.R. § 2.1202(b)(2), and the hearing file under 10 C.F.R. § 2.1203.<sup>3</sup> In the joint motion, the parties indicated their view that not only are the regulations unclear as to the obligations on the parties when a Board holds a proceeding in abeyance, but that it would be

<sup>1</sup> See Progress Energy Carolinas, Inc. (Shearon Harris Nuclear Power Plant, Units 2 & 3), LBP-08-21, 68 NRC \_\_ (slip op.) (Oct. 30, 2008).

<sup>2</sup> See Licensing Board Order (Granting Motion to Stay) (Nov. 5, 2008) (unpublished).

<sup>3</sup> See [Joint] Motion to Suspend Any Obligations of the Parties Concerning Disclosures under 10 C.F.R. § 2.336 or 10 C.F.R. § 2.704, the Staff's Role under 10 C.F.R. § 2.1202(b)(2), and Hearing File under 10 C.F.R. § 2.1203 (Nov. 13, 2008).

appropriate to suspend these specific obligations until after the Commission's decision on appeal. We agree that granting the requested suspension of hearing obligations is appropriate in this circumstance.<sup>4</sup> The obligations concerning disclosures under 10 C.F.R. § 2.336 or § 2.704, the Staff's role under 10 C.F.R. § 2.1202(b)(2), and the hearing file under 10 C.F.R. § 2.1203 are therefore hereby suspended until 30 days after the date of the Commission's decision on appeal, or further Board notice.<sup>5</sup>

In suspending these specific hearing-related obligations, we are not suspending other obligations of any party, including those of the parties with regard to NC-WARN's Motion made on November 12, 2008 regarding a proposed additional contention (TC-7); all such obligations continue in accordance with the Agency's regulations.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>6</sup>

*/RA/*

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Paul B. Abramson, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
November 14, 2008

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<sup>4</sup> See Progress Energy Carolinas, Inc. (Shearon Harris Nuclear Power Plant, Units 2 & 3), 68 NRC at \_\_\_ (slip op. at 9).

<sup>5</sup> These obligations will only arise if the Commission returns the case to the licensing board and its decision does not adversely affect our ruling on contention admissibility.

<sup>6</sup> Copies of this memorandum and order were sent this date by the agency's E-Filing system to the counsel/representatives for (1) applicant Progress Energy; (2) Petitioner NC-WARN; (3) Staff; 4) SC ORS; and 5) NCUC.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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PROGRESS ENERGY CAROLINAS, INC. ) Docket Nos. 52-022 and 52-023-COL  
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(Shearon Harris, Units 2 and 3) )  
 )  
(Combined Operating License) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (GRANTING JOINT MOTION TO SUSPEND OBLIGATIONS) have been served upon the following persons by Electronic Information Exchange.

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DOCKET NOS. 52-022 and 52-023-COL  
LB ORDER (GRANTING JOINT MOTION TO SUSPEND OBLIGATIONS)

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[Original signed by Evangeline S. Ngbea]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 14<sup>th</sup> day of November 2008