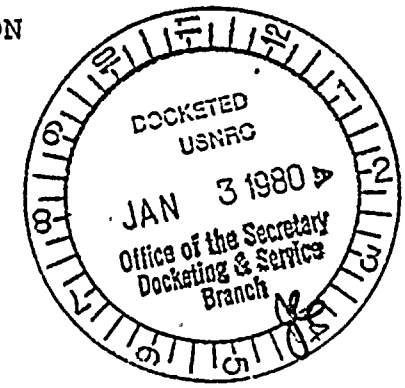
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



ATOMIC SAFETY AND LICENSING APPEAL BOARD

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Michael C. Farrar

In the Matter of		
CAROLINA POWER AND LIGHT COMPANY	)	Docket Nos. 50-400
	)	50-401
(Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4)	)	50-402
	)	50-403

ORDER

January 3, 1980

By order of December 27, 1979, we directed the NRC staff to submit, no later than January 15, 1980, a supplemental memorandum addressed to certain specific questions. We are now informed that the Licensing Board intends to furnish us shortly with the additional statement of its views which had been invited in our memorandum of October 12, 1979.

The staff may wish to take the content of that statement into consideration in preparing its supplemental memorandum. Accordingly, the deadline for the filing of the memorandum is

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hereby extended until the tenth day following the date upon which the Licensing Board's statement is issued. 1/

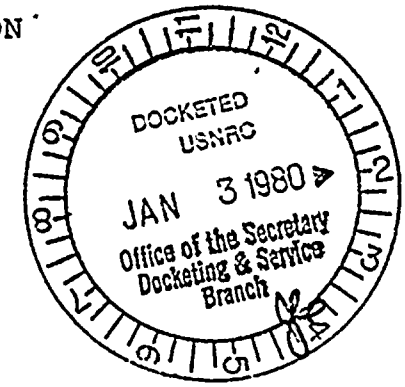
It is so ORDERED.

FOR THE APPEAL BOARD

Barbara A. Tompkins
Secretary to the
Appeal Board

1/ We assume that the statement will not issue on or before January 5; in all events, however, the staff's memorandum will not be due any earlier than January 15. In the interest of expediting the staff's receipt of its additional statement, the Licensing Board is requested to transmit a copy of it directly to staff counsel (Edwin J. Reis, Esquire) as soon as it has been issued. Service on the other parties to the proceeding (none of which is involved on the staff's appeal) can be left to the Docketing and Service Branch.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



ATOMIC SAFETY AND LICENSING APPEAL BOARD

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Dr. John H. Buck
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In the Matter of	
CAROLINA POWER AND LIGHT COMPANY	Docket Nos. 50-400 50-401
(Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4)	50-402 50-403

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of		
CAROLINA POWER AND LIGHT COMPANY	Docket No.(s)	50-400
		50-401
(Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4)		50-402
		50-403

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this
3rd day of Jan 1980.

Peggy T. Downing
Office of the Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
CAROLINA POWER AND LIGHT COMPANY	)	Docket No.(s) 50-400
	)	50-401
(Shearon-Harris Nuclear Power	)	50-402
Plants, Units 1-4)	)	50-403
	)	

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Alan S. Rosenthal, Chairman
Dr. John H. Buck
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In the Matter of	)	
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CAROLINA POWER AND LIGHT COMPANY	)	Docket Nos. 50-400
	)	50-401
(Shearon Harris Nuclear Power	)	50-402
Plant, Units 1, 2, 3, and 4)	)	50-403
	)	

ORDER

December 27, 1979

In connection with its pending appeal, the NRC staff is directed to file a supplemental memorandum addressed to the significance, if any, of the phrase "or in which the Commission finds that a hearing is required in the public interest", as it is employed in 10 CFR 2.104(a). Specifically, we are interested in a further development of the staff's views respecting:

(1) Whether a licensing board can make such a finding on the Commission's behalf as its delegate.

(2) If so, whether such a finding with regard to a hearing on an operating license application can be made by the

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licensing board at the time it acts upon the construction permit application.

(3) If so, whether the challenged condition imposed by the Licensing Board in this proceeding (LBP-79-19, 10 NRC 37, 98 (July 13, 1979)) can fairly be taken as encompassing a finding that a hearing on the operating license application is required in the public interest (at least on the issue of the applicant's management capability and technical qualifications to operate the Shearon Harris facility).

The supplemental memorandum should be filed no later than January 15, 1980.

It is so ORDERED.

FOR THE APPEAL BOARD

C. Jean Bishop
Secretary to the
Appeal Board

Mr. Farrar did not participate in this order.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
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I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this
28th day of Dec 1979.

Eugenia M. Pleasant
Office of the Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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