



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

March 20, 1990

Docket No. 50-400A

Gary J. Newell, Esq.  
Spiegel & McDiarmid  
1350 New York Avenue, N.W.  
Washington, DC 20005-4798

Re: Shearon Harris Nuclear Plant, Unit 1; Request for  
Initiation of Informal Complaint: Your Letter  
to Eileen McKenna Dated February 23, 1990

Dear Mr. Newell:

After reviewing your initial request to initiate a complaint against Carolina Power & Light Company (CP&L) dated May 5, 1989 (Request) and subsequent filings you have provided the staff, the staff has determined that the issues you raised are being addressed in the ongoing arbitration proceeding involving your client, North Carolina Eastern Municipal Power Agency and CP&L.

Although the issues you have raised appear to overlap many of the concerns addressed by the Shearon Harris Nuclear Plant antitrust license conditions, the dispute between your client and CP&L appears to involve an interpretation of a contract agreement between the two parties, i.e., the 1981 Power Coordination Agreement between CP&L and your client. This is apparent in your February 23, 1990, letter where you state that,

Power Agency believes that CP&L is asserting an unjustified and unsupported interpretation of a 1981 power coordination agreement with Power Agency (the "1981 PCA") that would prevent Power Agency from making the most effective use of power supply resources available to it from other suppliers.

You failed to identify any of your concerns that are not being addressed in arbitration that would fall within the jurisdiction of the Shearon Harris Nuclear Plant antitrust license conditions -- as requested by the staff in its January 22, 1990 letter. If the issues presently being arbitrated are in any way changed from those you have described in your filings, the staff would appreciate being notified of such a change.

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The issues and concerns you have raised are of concern to the staff. We would appreciate it if you would provide the staff with periodic (monthly, if appropriate) progress reports of the arbitration proceedings.

Sincerely,

Original Signed By:

Martin J. Virgilio, Chief  
Policy Development and Technical Support Branch  
Program Management, Policy Development  
and Analysis Staff  
Office of Nuclear Reactor Regulation

cc: George A. Avery

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