

03/26/82

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)
CAROLINA POWER AND LIGHT COMPANY)
(Shearon Harris Nuclear Power Plant,)
Units 1 and 2))

Docket Nos. 50-400
50-401

NRC STAFF ANSWER TO APPLICANTS' MOTION FOR THE
ESTABLISHMENT OF A SCHEDULE AND NRC STAFF
REQUEST FOR CLARIFICATION OF BOARD'S ORDER

I. INTRODUCTION

On March 12, 1982, Applicants filed "Applicants' Motion for the Establishment of a Schedule Leading to a Special Prehearing Conference." (hereafter "Motion"). In this Motion, Applicants request that the Atomic Safety and Licensing Board (hereafter "the Board") schedule a special prehearing conference and require that the supplemental petitions called for by 10 CFR § 2.714(b) be filed no later than thirty (30) days prior to the date of the conference (Motion, at 3). Between the time the supplemental petitions are filed pursuant to 10 CFR § 2.714(b) and the special prehearing conference is held, the Applicants propose to meet with the petitioners and the NRC Staff in an effort to discuss contentions and other matters (Id., at 2). Applicants propose that the prehearing conference be held on or about May 18, 1982 (Id., at 3).

Subsequently, on March 16, 1982, the Board issued an Order in response to this motion and a motion filed by Chapel Hill Anti-Nuclear

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Group Effort ("CHANGE")^{1/} requesting (1) copies of the Final Safety Analysis Report (FSAR") and Environmental Report ("ER") to facilitate its preparation of contentions and (2) a minimum of thirty (30) days following receipt of these documents in which to prepare contentions. The Board, noting that the Applicants' motion was served on the petitioners, but that petitioners are not yet parties, invited petitioners to respond to Applicants' motion (Order, at 2).^{2/} The Board also endorsed Applicants' proposal that petitioners meet with Applicants and the NRC Staff before the special prehearing conference. Insofar as a date for the prehearing conference is concerned, the Board stated that it would be available June 8, 9 and 10, but not on the May 18 date suggested by the Applicants. With respect to CHANGE's requests, the Board stated as follows:

"...we are establishing a second Public Document Room in the Public Library in Chapel Hill, North Carolina. (One Public Document Room is already located in the Wake County Library in Raleigh, North Carolina.) Second, when we set a date for the conference, we will allow at least 30 days for preparation of contentions." Order, at 2-3.

^{1/} CHANGE is one of nine petitioners requesting a hearing and leave to intervene. On March 5, 1981, CHANGE filed "Motion By Chapel Hill Anti-Nuclear Group Effort (CHANGE) For Extension of Time." As indicated below, since the Board's Order essentially ruled on CHANGE's Motion, the Staff did not file an answer to CHANGE's Motion.

^{2/} The Board provided that responses to Applicants' motion, including the Staff's response, be served by March 26, 1982. Order at 3.

II. DISCUSSION

A. Staff Answer to Applicants' Motion

The Staff, along with Applicants and the Board, believes that before the special prehearing conference is held, petitioners, Applicants and the Staff should meet to discuss contentions and the other matters noted in Applicants' Motion. The Staff intends to participate in such meetings. In order for such a meeting to be meaningful, the Staff believes that the meeting should be held after supplements setting forth contentions are filed. In view of the number of petitioners in this case,^{3/} a fifteen-day period between the filing of supplemental petitions and the special prehearing conference would be inadequate for the completion (or even conduct) of negotiations among the participants.^{4/}

The Board, in considering CHANGE's motion, stated that when it sets the date for the prehearing conference, it "will allow at least 30 days for preparation of contentions" (Order, at 3). The Staff urges the Board, in order to facilitate a meeting to discuss contentions and other

^{3/} See footnote 1, supra.

^{4/} 10 CFR § 2.714(b) provides that petitioners for leave to intervene must file supplements setting forth contentions no later than fifteen days before the special prehearing conference is held. The Staff believes that because of the large number of petitioners, a fifteen-day period would be inadequate even for filing responses to the supplements to these petitions. Since such supplements must be filed not later than 15 days prior to the special prehearing conference, supplements filed on the last day for filing might not be received by the Board, Applicants and Staff until a very short time (i.e., one week) before the prehearing conference. As a practical matter, it would be necessary to respond to such supplements at or before the special prehearing conference, well before expiration of the period provided in the regulations for responding to such supplements.

matters, also provide that contentions are to be filed not later than 30 days before such a prehearing conference. In scheduling a prehearing conference, the Board should not only provide sufficient time for petitioners to prepare and file contentions but should also provide sufficient time before the prehearing conference is held for review and analysis of contentions and for a meeting to be held to discuss such contentions. Taking this into account, the Staff proposes the following schedule based on the June 8-10 dates mentioned by the Board for a prehearing conference:

- April 7, 1982 (or before) - Order or notice scheduling prehearing conference and deadline for filing contentions
- May 7, 1982 - Deadline for filing contentions
- Mid to late May, 1982 (approximate) - Meeting of Petitioners, Applicants, Staff
- June 8, 1982 - Prehearing Conference

In the Staff's view, the above-schedule allows sufficient time for the petitioners to prepare contentions and for such contentions to be considered at a meeting before the prehearing conference is held and also gives the Board time to consider, before scheduling a prehearing conference, the responses due on March 26, 1982 to Applicants' motion.

B. Staff Request for Clarification of Board's Order

As previously stated, the Board's Order indicates that a second Public Document Room is being established in Chapel Hill, North Carolina. In this regard, Staff counsel understands that the Chief of the Local Public Document Room (LPDR) Branch, in response to the Board Chairman's request, found a library (the Chapel Hill Public Library)

willing to receive and maintain copies of the application, ER and FSAR and amendments (See attached Memorandum). Apparently copies of these documents (and amendments) will be provided by the Applicants directly to the library. According to the attached memorandum, these are the only documents that will be available at the Chapel Hill library. Other documents found at the official LPDR (in Raleigh, North Carolina), such as copies of I&E reports and correspondence, will not be available at the Chapel Hill public library. Since the Board's Order suggests that there will be an official, complete LPDR in Chapel Hill, as well as in Raleigh, the Board may wish to clarify that Order to indicate that only copies of the application, ER and FSAR will be found at the Chapel Hill library. Otherwise, members of the public and petitioners may go to the Chapel Hill Library expecting to find all documents found at the official LPDR in Raleigh, only to discover that such documents are not there.

The Staff believes that full consideration is required before the establishment of official LPDR's, due to, inter alia, the expense and burden on Staff resources and the difficulty in finding a library willing to receive and maintain the numerous documents sent to LPDR's. The Staff notes that there are other petitioners living in Apex and Durham, North Carolina, one of whom (Wells Eddleman, of Durham) has made a request similar to CHANGE's request.^{5/} If the Board intends to respond

^{5/} See "Petition to Intervene, Request for Hearing, and Motion for Extensions of Time of Wells Eddleman, pro se," February 25, 1982, at 5. The Staff's response to this petition is contained in "NRC Staff Response to Petitions for Leave to Intervene," March 9, 1982.

to this request in a manner similar to its response to CHANGE's request, the Staff seeks the opportunity to address the matter in writing before further action by the Board.

III. CONCLUSION

For the reasons stated above, the Staff supports and intends to participate in a process which includes a proposed meeting(s) with Applicants and petitioners to discuss contentions and other matters. The Staff supports Applicants' request that the Board, in order to facilitate such a process, establish a schedule requiring that contentions be filed no later than 30 days prior to the holding of the special prehearing conference. The Staff also recommends that the Board clarify its Order as to the establishment of a second Local Public Document Room.

Respectfully submitted,

Marjorie Ulman Rothschild

Marjorie Ulman Rothschild
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 26th day of March, 1982