

September 7, 1982

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
CAROLINA POWER & LIGHT COMPANY)	Docket Nos. 50-400 OL
AND NORTH CAROLINA EASTERN)	50-401 OL
MUNICIPAL POWER AGENCY)	
)	
(Shearon Harris Nuclear Power)	
Plant, Units 1 and 2))	

APPLICANTS' RESPONSE TO
PETITIONER RICHARD D. WILSON'S
MOTION TO COMPEL SERVICE OF
DOCUMENTS TO INTERVENORS

On August 10, 1982, Applicants filed their "Position on Service of Documents to Intervenors". There Applicants committed to provide copies of all documents filed with the Director of Nuclear Reactor Regulation ("NRR" also used synonymously herein with "NRC Staff") in support of their application for operating licenses directly to the public documents rooms. Furthermore, to ensure all intervenors have notice of amendments to the FSAR and ER, or responses to formal NRC Staff questions, Applicants committed to serve all intervenors with the cover letters which forward such documents to NRR.

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Petitioner Richard D. Wilson apparently was not satisfied and filed a "Motion to Compel Service of Documents to Intervenors" on August 20, 1982. Dr. Wilson argues that the Commission's regulations at 10 C.F.R. § 2.701(b) require service of all documents "offered for filing" on "all parties". Thus in Dr. Wilson's view service of only the cover letter which forwards amendments to the ER, amendments to the FSAR and responses to NRC Staff questions is deficient. Dr. Wilson suggests prejudice in not having the opportunity to receive "free of charge" all documents filed with the NRC Staff, who, like the Intervenors, is a party to the instant proceeding.

Chapel Hill Anti-Nuclear Group Effort ("CHANGE")/ Environmental Law Project ("ELP") filed an "Answer in Support of Motion" on August 30, 1982. CHANGE/ELP argues that Section 2.701(b) requires documents "offered for filing" to be served on all parties, and that the application, which includes the FSAR, is "filed"; thus amendments to the FSAR are part of the application -- as such must be "filed" -- and therefore, it is argued, must be served.

Both Dr. Wilson and CHANGE/ELP demonstrate a fundamental misunderstanding of the licensing process. An application for an operating license is filed with the Director of NRR pursuant to 10 C.F.R. § 2.101 and 10 C.F.R. § 50.30. An adjudicatory hearing need not be held. If no request for a hearing or petition for leave to intervene is filed, pursuant to 10 C.F.R. § 2.105(e)(1) the Director of NRR may issue the license after satisfactory completion of the NRC Staff technical and environmental review.

If requests for a hearing and petitions to intervene are properly filed and the designated Atomic Safety and Licensing Board determines that there are matters in controversy, an adjudicatory proceeding is held only on such matters in controversy. See 10 C.F.R. Part 2, App. A, VIII.

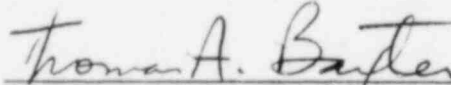
Section 2.701, relied on by Dr. Wilson and CHANGE/ELP, deals only with documents to be "filed with the Commission in adjudications." 10 C.F.R. § 2.701(a). The Director of NRR and his staff continue with their comprehensive review of the Applicants' application for an operating license on a somewhat independent path.

Thus, the only documents required by § 2.701(b) to be filed upon all parties are those documents filed in support of adjudication of the issues in controversy. All documents filed with the Director of NRR or his staff need not be served on the Board much less on all parties.

Because there is no requirement to file such documents on all parties, the Board had asked Applicants' and the NRC Staff's position on whether, as a matter of discretion, the Board should order the Applicants to do so. As set forth in Applicants' response

of August 10, 1982, there has been no demonstration that such a requirement of Applicants is necessary or warranted to ensure a fair adjudication of any issues found to be in controversy.

Respectfully submitted,



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Dated: September 7, 1982

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CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response To Petitioner Richard D. Wilson's Motion To Compel Service Of Documents To Intervenors" were served this 7th day of Septmeber, 1982, by U.S. mail, first class to those parties on the attached Service List:

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