

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'82 OCT 18 P1:2

Glenn O. Bright
Dr. James H. Carpenter
James L. Kelley, Chairman

OFFICE OF THE
GENERAL COUNSEL
NRC
WASHINGTON, D.C.

In the Matter of)

CAROLINA POWER & LIGHT COMPANY)
AND NORTH CAROLINA EASTERN)
MUNICIPAL POWER AGENCY)

(Shearon Harris Nuclear Power)
Plant, Units 1 and 2))

Docket No. 50-400 OL
50-401 OL

October 14, 1982

RESPONSE TO MEMORANDUM AND ORDER

On September 22, 1982, the Atomic Safety and Licensing Board issued its "Memorandum and Order (Reflecting Decisions Made Following Prehearing Conference)," in the above-captioned matter. The intervenor Conservation Council of North Carolina objects to that section of the Order dealing with the service of documents. The Intervenor also makes comments as to the security plan and to the structure of the discovery process.

Objection as to the Service of Documents

We did not respond to the Applicant's objection to the Board's tentative preference for a Catawba-type order relating to the service of documents as our considerations were adequately covered by the responses filed by CHANGE, Dr. Wilson, and Mr. Eddleman. The commitment by the Staff to serve all papers they originate in this matter to all intervenors is heartily

welcomed as it allows us to keep up on all developments in this matter, especially in regards to new material which might be the basis for additional contentions.

However, Section F of the Memorandum and Order, p. 77-79, orders the Applicants to serve copies of relevant documents, besides those offered for filing in the adjudication, only on two of the six Intervenor admitted in this proceeding. The other four of us must find out from the "lead Intervenor" in our area what was served and then set up appointments to review the new material. This makes our task of intervening in this matter much more difficult; it will be a logistical problem in keeping up with new developments. We are already constrained in reviewing material that might form the basis for new contentions by factors for late contentions listed in 10 CFR 2.714(a)(1). A week or two time delay while arrangements were worked out with the "lead Intervenor" would increase our vulnerability to the claim of "lateness."

There are two other considerations, cost and discovery, which need discussion. In constructing a nuclear power plant that will inevitably cost several billion dollars, the additional expense of serving ~~six copies over two~~ of the material generated for the Nuclear Regulatory Commission does not seem to be excessive. Further, the cost of the additional materials can easily be shifted to the rate-payers of the Applicant and spread out all the customers in their service area. Intervenor, whose involvement in this matter is to help the Applicants and NRC insure as safe a power plant as possible, should not have to bear the

burden of copying relevant material supplied only to other Intervenorors. Further, if the material is supplied to all Intervenorors the discovery process will be stream-lined as in many cases, the material the Applicant supplies to the Staff is the very material which will need to be discovered. It will be easy for us to miss material if we have to rely on it being supplied to us by "lead Intervenorors."

We hereby request the Board to alter its Memorandum and Order, Section F, to include the service of all materials generated by the Applicant in this matter to all six Intervenorors, an order similar to that in the Catawba proceeding. If that is not done, the Conservation Council requests that they are at least served with the cover letters and summary statements from the materials generated in this matter so that we can better monitor the progress made by the Applicant in responding to Staff requests.

Comments on the Security Plan

The Conservation Council has joined several other Intervenorors in seeking to litigate the adequacy of the security plan. This motion will be filed separately and is an effort to consolidate the process of reviewing the security plan. We reiterate our acceptance of a Diablo Canyon-type protective order as to the security plan information.

Comments on Discovery

The Conservation Council found the discussion on the

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discovery process with the Applicant and Staff at the special prehearing conference to be useful. We would like to meet again as a group to continue that discussion and formulate a workable schedule for discovery.

Conclusion

Intervenor Conservation Council of North Carolina respectfully requests that the Board revise its Memorandum and Order of September 22, 1982, as herein provided and grant such further relief as is just and reasonable.

Respectfully submitted

John D. Runkle

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CERTIFICATE OF SERVICE

I hereby certify that copies of this filing were served
this 14th day of October, 1982, by deposit in the U.S.
mail, first class, postage prepaid, or by hand-delivery, to
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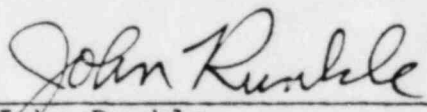
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