

11/05/82

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
CAROLINA POWER AND LIGHT COMPANY)	Docket Nos. 50-400
)	50-401
(Shearon Harris Nuclear Power)	
Plant, Unit 1 and 2))	ASLBP No. 82-468-01 OL

NRC STAFF OBJECTIONS TO SECURITY
EXPERTS PROFFERED BY THE INTERVENORS

I. Introduction

On October 15, 1982, Wells Eddleman, Kudzu Alliance, Conservation Council of North Carolina and Chapel Hill Anti Nuclear Group Effort (Intervenors) filed a document entitled "Response to Questions". This document contained Intervenors' responses to questions posed by the Board relating to procedural issues in connection with proposed contentions on the physical security plan for the Shearon Harris plant. The NRC Staff (Staff) has reviewed the Intervenors' filing and, for the reasons discussed below, concluded that the Intervenors have not demonstrated that any of the three persons proffered by Intervenors have the requisite qualifications and experience to qualify them as experts on security planning for a nuclear power facility.

II. Background

In support of their petitions for intervention, several intervenors proposed contentions on the physical security plan for the Shearon Harris plant. During the special prehearing conference held on July 13 and 14,

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1982, the Board discussed with the parties the concept that contentions about the security plan raised some threshold procedural issues that should be first addressed and resolved. Further, the initial approach that was taken by the Catawba Licensing Board to such threshold issues was discussed and there was general agreement that the same approach would be followed in this proceeding. Tr. at 39, 73-76, 172-73, and 447. Accordingly, the Board directed the Intervenors to answer three questions drawn from the Catawba Order of April 13, 1982.^{1/} Memorandum and Order (Reflecting Decision Made Following Prehearing Conference), September 22, 1982, at 16-17.

The Intervenors joined together and filed a single set of answers to the Board's questions on October 5, 1982. In their Response, Intervenors stated that (1) they have secured the services of "three security plan experts" and intended to use one or more of them accepted by the Board; (2) they are continuing to contact "experienced security personnel" as potential experts and will notify the Board and parties of the identities and qualifications of any found and (3) a protective order consistent with the one entered in the Diablo Canyon case would be acceptable to Intervenors.

The Applicants submitted a reply to Intervenors' Response on October 28, 1982.^{2/} In their reply, Applicants take the position that the Intervenors have not adequately demonstrated the relevant expertise

^{1/} Duke Power Company, et al. (Catawba Nuclear Station, Units 1 and 2), Memorandum and Order, April 13, 1982.

^{2/} "Applicants' Reply To Intervenors' Response to The Board's Question On a Qualified Security Expert," dated October 28, 1982.

of the three persons identified as security plan experts. The Staff's position with regard to Interenor's Response is set forth below.^{3/}

III. Discussion

In order to protect the sensitive information contained in plant security plans, the Appeal Board has established guidelines for allowing access to such plans in connection with licensing proceedings.

Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-410, 5 NRC 1398, 1403-1407 (1977).^{4/} In addition to limiting access to those portions of the plan which are relevant to an intervenor's contentions, and then only subject to a protective order, the Appeal Board in Diablo Canyon stated that access to security plans should be given "only to witnesses who have been shown to possess the technical competence necessary to evaluate the portions of the plan which they may be shown. Any other course would contravene the requirement that access be afforded only to 'persons properly and directly concerned'

^{3/} In response to an oral request by Staff Counsel, the Board authorized the Staff to file its position by November 5, 1982.

^{4/} These guidelines were generally endorsed by the Commission in Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), CLI-80-24, 11 NRC 775, 777 (1980), and in its explanation of the recently adopted Commission regulations on Protection of Unclassified Safeguards Information, 46 Fed. Reg. 51718 (October 22, 1981). Moreover, in 10 C.F.R. Section 2.744(e) as therein revised, the Commission expressly provided for use of protective measures "as may be necessary and appropriate to limit the disclosure [of Safeguards Information] to parties ... and to their qualified witnesses and counsel." (Emphasis added)

(10 C.F.R. § 2.790(b)(6))." Id. at 1404.^{5/} Moreover, "the party sponsoring a witness has the burden of demonstrating his expertise." Id. at 1405.

Intervenors profer three persons as "security plan experts" and provide brief statements of their qualifications. They allege that Mr. Beckwith and Mr. Maples, while in the Army, received training and experience as to the maintenance and storage of nuclear weapons. However, no details are provided as to the precise nature of the training and experience to determine whether it is relevant to a civilian nuclear power plant and would qualify them to review a security plan for such a facility. With regard to Mr. Sanders, Intervenors assert he spent eight years as Security Supervisor for Iowa Electric & Power Company and he received training in nuclear security and NRC regulations. Again, no information is provided as to the nature of the training or what Mr. Sanders' duties were as Security Supervisor. Without such information, Intervenors have not established that Mr. Sanders has the technical expertise to evaluate the components of a security plan or the ability to design an overall system. As the Catawba board noted, there is no basis for assuming that a former security employee ipso facto has the necessary

^{5/} In applying the Appeal Board guidance, the Licensing Board in Diablo Canyon, LBP-78-36, 8 NRC 567, 569 (1978), elaborated on the meaning of "technical competence", as follows:

We believe that "technical competence" to evaluate the components of a security plan ideally requires practical knowledge flowing many working with the assembly of the "nuts and bolts" etc., of the various components of the security system, at least to the extent of being able to design an overall system. It does not necessarily mean the raw material labor involved, but an intimate, on-the-spot knowledge of the fabrication and assembly of each component.

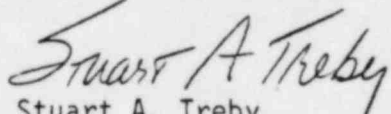
background. Catawba, Memorandum and Order (Overruling Objections Following Prehearing Conference, Denying Requests for Referral to the Appeal Board, and Addressing Certain Related Questions), July 8, 1982, at 15. In addition, the assertion that the companies with which Mr. Maples, Mr. Beckwith and Mr. Sanders are associated are involved in development of security plans is not determinative. Aside from broad assertions, insufficient information is provided to permit any determination of the relevancy of such experience to a nuclear power plant. In addition, it is the qualification of the proffered individuals, not their employers, which the Board must find sufficient to permit the individuals access to the Shearon Harris security plant.

In sum, Intervenors have the burden of demonstrating the qualifications of their proposed experts. An expert in nuclear power plant security should possess extensive training or experience in that or closely related fields. Such a person should be able to assess overall plant security with an appreciation for its interrelated aspects. Catawba, Memorandum and Order dated July 8, 1982, at 15; Diablo Canyon, LBP-78-36, 8 NRC 567, 569. The meager information provided in Intervenors' Response concerning the training and experience of the three persons identified fails to demonstrate that they have the requisite qualifications.

IV. Conclusion

For the above reasons, Intervenors have failed to demonstrate that they have retained experts properly qualified to review the security plan.

Respectfully submitted,



Stuart A. Treby
Assistant Chief Hearing Counsel

Dated at Bethesda, Maryland
this 5th day of November, 1982

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF OBJECTIONS TO SECURITY EXPERTS PROFFERED BY THE INTERVENORS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 5th day of November, 1982

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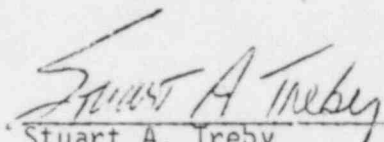
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