

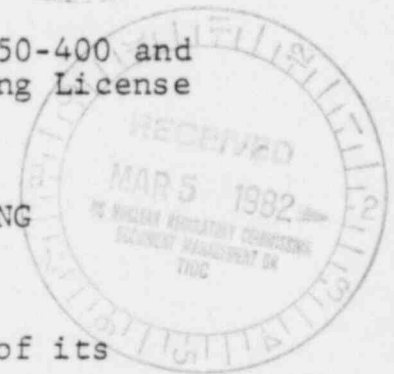
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



In the Matter of:

CAROLINA POWER AND LIGHT )  
COMPANY, et al )  
(Shearon Harris Nuclear )  
Power Plant, Units 1 and 2) )

Docket Numbers 50-400 and  
50-401, Operating License



PETITION TO INTERVENE AND REQUEST FOR HEARING  
OF THE KUDZU ALLIANCE

KUDZU ALLIANCE, on its own behalf, on behalf of its members, and on behalf of other persons who are similarly situated, hereby petitions for leave to intervene in the above-captioned licensing proceedings as a party of record, requests that public hearings be conducted at which it will be afforded an opportunity to be heard, and requests that this Application for Operating License be denied. This relief is sought under provisions of the Atomic Energy Act of 1954, as amended, 42 U.S.C. sections 2135 and 2239; and 10 C.F.R. section 2.714. In support of this Petition and Request for Hearing, Kudzu Alliance shows the Commission the following:

1. The name of Petitioner is Kudzu Alliance. Its address for purposes of service in this proceeding is: Post Office Box 531, Durham, North Carolina 27702. M. Travis Payne is the attorney and authorized representative for Petitioner. His address for purposes of service in this proceeding is: Edelstein and Payne, Post Office Box 12643, Raleigh, North Carolina 27605.

2. Kudzu Alliance is a not-for-profit membership organization

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incorporated under the laws of the State of North Carolina, with its principal offices in Durham. It has a state-wide membership which has organized for the purposes of promoting the development of safe and renewable energy sources to meet human needs, and educating the public about the dangers and costs of commercial nuclear power and radioactive wastes.

3. Members of Kudzu Alliance live, work, engage in outdoor recreational activities including fishing, boating, swimming, hiking, and camping; consume vegetables, dairy products and meat, and breathe the air in close proximity to the Shearon Harris Nuclear Power Plant, Units 1 and 2, now under construction in Wake County, North Carolina. Members of Kudzu Alliance are consumers of energy for residential, business, and recreational uses. All now purchase electric energy from commercial sources and would make use of energy sources which are reasonably interchangeable with electricity such as solar, wind, bio-mass, and conservation techniques if such energy sources were more readily available and competitively priced.

4. Petitioner's interest in protecting its members from probable harm to their health, safety, and economic interests can only be protected through full participation as a party to this proceeding with the right to offer evidence and to confront evidence offered by other parties. No other party can represent Petitioner's interest, including the State of North Carolina whose participation is expected to be limited, the Commission Staff which cannot represent the individual interests of

Petitioner's members, and the Applicants, whose interest is believed to be adverse to Petitioner's.

5. Petitioner is informed and believes that a reasonable probability exists that the granting of the license sought by the Applicants, and their joint ownership and operation of the Shearon Harris Nuclear Power Plant, Units 1 and 2, will contravene the anti-trust laws of the United States and the policies clearly underlying those laws. Petitioner is informed that the Applicants Carolina Power and Light Company, et al, have engaged individually and together in acts and conspiracies in restraint of trade, to acquire and maintain monopoly power, and to commit unfair trade practices to the direct injury of Petitioner's members who are consumers of electric energy sold by Carolina Power and Light. Petitioner's members are forced to pay higher prices for electricity and are denied access to reasonably interchangeable alternative energy sources, or must pay higher prices for such alternatives because of such conduct.

6. Petitioner is informed and believes that the grant of an operating license to Carolina Power and Light Company, et al, and the operation of Shearon Harris Units 1 and 2, will result in direct physical harm to the health, safety, and economic interests of its members, their families, and other persons similarly situated.

7. Petitioner is informed and believes that such adverse impact will result to its members, in part, for the following reasons:

(a) The long-term somatic and genetic health effects of radiation releases from the facility during normal operations and from the uranium fuel cycle, even when such releases are within existing guidelines, have been sufficiently underestimated by the Applicants and Commission Staff so as to compromise the validity of the cost-benefit balance struck at the construction permit phase of this license proceeding. The work of K. Z. Morgan, Bernd Franke of Heidelberg, and others calls into serious question the analysis relied upon including that of the BEIR III report and the Commission's food chain analysis, strongly suggesting that the health effects of ionizing radiation have been seriously underestimated.

(b) The Applicants and Commission Staff have failed to adequately assess the impact of a serious accident, beyond design basis, on both the cost-benefit balance struck at the construction permit phase of this proceeding, and the ability of Applicants, and local and State officials, to implement radiological emergency plans sufficient to protect residents living in proximity to the plant. The probabilistic analysis employed in the Reactor Safety Study (WASH 1400) has been so seriously criticized as to make its use in licensing proceedings as a basis for decision-making entirely inappropriate. "The consequence model used in WASH 1400 should be substantially improved, and its sensitivities explored, before it is used in the regulatory process." NUREG CR 0400, "Risk Assessment

Review Group Report to the U. S. Nuclear Regulatory Commission, H. W. Lewis, Chairman", p. xi.

(c) Petitioner is informed and believes that unqualified persons have been placed in sensitive construction positions during construction of the facility. Furthermore, Daniel Construction Company, the prime contractor for Shearon Harris Units 1 and 2, has improperly constructed base mats, walls, containments, and other important parts of previous nuclear plants that it has built. This strongly suggests that the actual plant construction is substantially below NRC standards in many safety-related areas.

(d) Petitioner is informed and believes that the Applicants are incapable of safely and efficiently operating the facility. Carolina Power and Light Company's operational history at its other nuclear facilities indicates its management inadequacies and the increased likelihood of radiation releases and serious accidents at this facility.

8. Petitioner reserves the right, and hereby asserts its intention, to hereafter file a supplement to this Petition to Intervene under the provisions of 10 C.F.R. section 2.714(b) listing the contentions which it seeks to have litigated in this proceeding, together with the bases therefor.

9. The Affidavit attached hereto indicating that more than one of its members will suffer injury in fact from the operation of this facility, is incorporated by reference.

WHEREFORE KUDZU ALLIANCE respectfully requests that it be

allowed to intervene and participate fully in this proceeding; and, that after full hearings on the merits, this operating license be denied.

KUDZU ALLIANCE further requests that copies of the Final Safety Analysis Report of December, 1981, and the Environmental Report be served both on it and its attorney; and that the time for listing the contentions Petitioner wishes to litigate in this proceeding be set no sooner than 30 days after the delivery of the copies of those reports to Petitioner and its attorney.

This the 22<sup>nd</sup> day of February, 1982.

EDELSTEIN and PAYNE  
Attorneys for Kudzu Alliance

By: M. Travis Payne  
M. Travis Payne  
723 W. Johnson St.  
P. O. Box 12643  
Raleigh, North Carolina 27605  
(919) 828-1456

#### CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that the foregoing Petition to Intervene and Request for Hearing was this day served upon the following parties by placing it in the United States Mail, postage prepaid, addressed as follows:

Secretary of the Commission  
Nuclear Regulatory Commission  
Washington, D.C. 20555  
Attention: Docketing and  
Service Branch

Executive Legal Director  
Nuclear Regulatory Commission  
Washington, D.C. 20555

George F. Trowbridge, Esq.  
Attorney at Law  
1800 M. Street, N.W.  
Washington, D.C. 20036

This the 22<sup>nd</sup> day of February, 1982.

M. Travis Payne

TO: UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

AFFIDAVIT OF JAMES S. OVERTON

I, James S. Overton, am Secretary of the Kudzu Alliance, a nonprofit North Carolina corporation organized to educate the public about the dangers of nuclear energy, promote the use of renewable forms of energy, and act to represent our members before regulatory agencies.

The Kudzu Alliance Coordinating Council (which is its Board of Directors) first authorized our attorney, M. Travis Payne, to file intervention on behalf of our members and the Alliance itself on January 28, 1982, by the emergency telephone consultation method provided for in our By-Laws. The Coordinating Council confirmed this decision to intervene at its regular meeting on February 21, 1982. The Alliance's principal office is at 604 W. Chapel Hill St, Durham, NC 27701, within 50 miles of the Shearon Harris Nuclear Power Plant. Our corporate records, educational and other materials, and treasury are all located within 50 miles of the Harris nuclear plant site. In the event of an operating license being issued for the Shearon Harris Nuclear Power Plant, the Kudzu Alliance's members, offices, materials and treasury would be subject to adverse effects from radioactive contamination, nuclear accidents, nuclear waste transportation, and other activities due to the operation of the Harris nuclear plant, and the health and safety, jobs, property and psychological sense of well-being of our members would be jeopardized by the same risks.

I am duly authorized by the Kudzu Alliance Coordinating Council to make this declaration, and the Council is duly authorized to intervene in NRC proceedings on behalf of our members. M. Travis Payne, attorney for the Kudzu Alliance under our usual arrangement with him, is duly authorized to file petitions to intervene in the Harris operating license on behalf of Kudzu Alliance and its members whose interests may be adversely affected by the issuance of an operating license for the Shearon Harris Nuclear Power Plant. All previous authorizations of persons to represent the Kudzu Alliance by intervening, participating in hearings, and conducting intervention on behalf of Kudzu Alliance and its members remain in effect. No one is authorized by the Coordinating Council nor the members to terminate Kudzu Alliance's participation in the matter of the Shearon Harris Nuclear Power Plant operating license.


That among the members of Kudzu Alliance who reside within 50 miles of the Shearon Harris Nuclear Power Plant and work within the same radius of the plant site and whose health, safety, job and property interests may be adversely affected by it and who have authorized the Kudzu Alliance to intervene on their behalf and represent them are:

David Birkhead and Carol Anderson, Rt 2, Box 80, Rougemont, NC 27572  
Leslie Gildemeister and Rick Bartram, 2007 Englewood Ave, Durham, NC 27705  
Ann Ramsbotham and Larry Kehrer, Rt 6, Box 261, Chapel Hill, NC 27514  
Tom Wartenberg, 2409 W. Club Blvd, Durham, NC 27705  
Bob Brogden, 200 Broad St., Carrboro, NC 27510

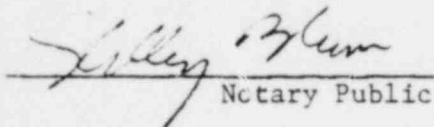
Affidavits from each one of them will be filed as soon as practicable.

I am one of the members who has authorized Kudzu Alliance to petition to intervene in the Harris operating license case on my behalf, and to represent me, since I reside at 709-A Yancey St, Durham, NC 27701, within 50 miles of the Harris plant site, and my health, safety, job and property would be at risk from the operation of that plant, and thus from an operating license for that plant being issued.

This the 24<sup>th</sup> day of February, 1982

  
James S. Overton  
Secretary  
Kudzu Alliance

Today James S. Overton appeared before me and affirmed that he is Secretary of the Kudzu Alliance, and duly authorized me to make the foregoing affidavit on the Alliance's behalf, and that it is true and correct to the best of his knowledge and belief.

  
Notary Public

This the 24 day of February, 1982

*My commission expires 2/29/87*