03/11/83

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

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

Docket Nos. 50-400 OL 50-401 OL

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

NRC STAFF RESPONSE TO WELLS EDDLEMAN'S REVISED, AMENDED AND ADDITIONAL CONTENTIONS BASED ON EDDLEMAN CONTENTION NUMBER 15

INTRODUCTION

Wells Eddleman, an intervenor in this proceeding, filed on February 11, 1983, 21 amendments to the second paragraph of his contention number 15. The Staff was granted by the Board until March 11, 1983 to respond to these revised contentions. Tr. at 586. For the reasons set forth below, Mr. Eddleman's proffered contentions should be rejected.

BACKGROUND

By filings dated May 14 and June 5, 1982, Mr. Eddleman proffered over 135 contentions. The NRC Staff and the Applicants responded. On July 13 and 14, 1982 a special prehearing conference was held in Raleigh, North Carolina, at which time Mr. Eddleman was permitted to present further discussion of his Contention 15. Tr. at 366-368, 614ff. The Licensing Board issued an Order on September 22, 1982 ruling, inter alia on all

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proffered contentions. That Order contains the Board's disposition of Eddleman's Contention 15, admitting it in part, denying it in part, and permitting Mr. Eddleman to amend the contention in so far as it addressed capacity factors used in the benefit/cost analysis if the Applicants' amended their ER to reflect other capacity factors in the ER's benefit/ cost analyses. Order at 40-4°. The text of Contention 15 as admitted is attached as Exhibit A. The text of ER Table 8.1.1-1 as it existed on July 14, 1982 is attached as Exhibit B. The text of ER Table 8.1.1-1 as amended by Amendment 5 (transmitted by Applicants to the Board and all parties on December 21, 1982) is attached as Exhibit C.

DISCUSSION

In accepting the portion of Contention 15 attacking capacity factor in the cost/benefit balance in the Applicants' analysis, the Board provided that if the Applicants should amend their analysis to show a change in the benefit as a result of a change in capacity factors, Mr. Eddleman could submit new contentions based on the new information. While the Applicants have provided information in amendment 5 on a range of capacity factors, they continue to use a 70% capacity factor in the Direct Benefits section of the Estimated Benefits of SHNPP. (Compare exhibits B and C). Since the Applicants continue to use a 70% capacity factor to quantify the benefit (i.e., the amount of electricity generated annually), the contention as accepted accurately places the matter in litigation and there is no new information to serve as the basis for revised or additional contentions on the issue of capacity factor, the only issue the Board indicated way appropriate for additional contentions.

- 2 -

Examination of the proffered contentions indicates that, except for 15A (which restates Mr. Eddleman's assertion that a 70% capacity factor is too high), they are beyond the scope of the subject matter, capacity factor, that the Board stated could be amended if the Applicants filed revised information relating to capacity factors with the NRC. The proffered contentions, except for 15A, relate to the economic cost side of the cost/benefit analysis. For example, a summary of the proposed contentions show that they concern: 15X, working capital costs associated with fuel inventories; 15Y, operating costs; 15C, variable operating and maintenance costs; 15D, modification repairs costs; 15E, nuclear fuel costs; 15F, escalation of fossil fuel costs; 15G, costs of alternative fuel savings; 15H, failure to disclose escalation rates; 15I, property of discount rates in capacity fuel savings; 15J, discount factors; 15K, costs of nuclear fuel disposal; 15L, out of service periods of nuclear units; 15M, costs of license fees; 15N, costs of nuclear liability insurance; 150, amounts of taxes; 15P, costs of accidents; 15Q, the cost/ benefit found at the construction permit proceeding; and 15R. load forcasts of third party strangers.

A review of this Staff summary, or of the contention themselves, clearly demonstrates that they concern matters beyond the 70% capacity factor issue upon which the Rnard authorized proffer of amendments. Rather, the proffered contention relate to the reasonableness of the economic operating costs of the facility. It is well settled that the Commission's regulatory authority over purely economic matters of this sort is strictly limited. <u>Cincinnati Gas and Electric Company</u> (Wm. H. Zimmer Nuclear Station), 12 NRC 231, 233-34 (1980) and cases cited

- 3 -

therein. As the Board in the Zimmer proceeding noted: "Once need for power has been established, economic cost may be considered, aside from antitrust questions, only in terms of the Applicants' financial qualifications and as an element in the evaluation of alternatives which must be under taken during the environmental review of the facility." Id. at 233. Since the issuance of the Zimmer decision, the Commission has amended its regulations in 10 C.F.R. Part 51 to provide that need for power and alternative energy source issues will not be considered in operating license proceedings (47 Fed. Reg. 12940 (1982)) and its regulations in 10 C.F.R. Parts 2 and 50 to provide for the elimination of review of financial qualifications of electric utilities in licensing hearings for nuclear power plants (47 Fed. Reg. 13750 (1982)). Thus, the limited areas in which the Commission had regulatory authority over eocnomic matters have been made inappropriate for adjudication as a result of the Commission's amendments to its regulations. Accordingly, the proffered contentions, which deal solely with economic costs, should be rejected.

CONCLUSION

For the above reasons, Mr. Eddleman's proffered amendments to his Contention 15 should be rejected.

Respectfully submitted,

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Charles A. Barth Counsel for NRC Staff

Dated at Bethesda, Maryland this 11th day of March, 1983

- 4 -

EXHIBIT A

Eddleman 15°

14

Applicants' ER makes no mention of the economic costs of nuclear waste disposal as a cost in its cost-benefit analysis, though it does include such costs as a "benefit" in its calculation of per-kilowatt-hour charges to customers. (Table 8.2.1-2, page 8.2.1-4, line under "Fuel Cycle Costs" for "spent fuel storage/disposal"). Nuclear waste disposal costs should be included as costs, at more realistic figures than 1.2 mills/kwh.

Applicants' ER assumes a 70% DER capacity factor for the full lifetime of the units, ignoring the fact that no large Westinghouse PWR had (as of 12/31/80) ever achieved such a lifetime capacity factor to date (large PWRs being 700 MW and over, CP&L's turnkey unit Robinson 2 having the highest lifetime DER CF at 66.5% as of that date).

2

2

TABLE 8.1.1-1

1.1

ESTIMATED BENEFITS OF SHNPP

DIRECT BENEFITS	
Number of Units	2
Expected Average Annual	·
Generation Per Unit	5.52 x 109 Kw-Hr
Capacity Per Unit	900,000 kW
Proportional Distribution of Electrical Energy Per Unit	
Industrial	1.00 1
Residential	1.96 Kw-Hr 1.33 Kw-Hr
Commercial	0.88 Kw-Hr
Public Street and Highway Lighting	0.02 Kw-Hr
Other Sales to Public Authority	0.11 Kw-Hr
Sales for Resale	1.22 Kw-Hr
*Annual Revenues from Delivered Benefits Per Un	nit
Industrial	
Residential	\$ 93,632,000
Commercial	80,154,000
Public Street and Highway Lighting	51,772,000
Other Sales to Public Authority	1,002,000
Sales for Resale	6,032,000 47,795,000
Total	\$280,387,000
INDIRECT BENEFITS	
Taxes	See Table 8.1.2-1
*Regional Product	
Construction Payroll	CO 50 W 111
Operations Payroll	\$859 Million \$653 Million
Employment at SHNPP	같은 것 것 같아요? 지신은 것 같아요? 것 것이
Construction	2700
Operation	3700 personnel at peak 900 personnel

*1984 Dollars

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TABLE 8.1.1-1

ESTIMATED BENEFITS OF SHNPP

DIRECT BENEFITS

Number of Units	2
Capacity Per Unit	900,000 KW
Expected Average Annual	5.52 x 10 ⁹ KWH
Generation Per Unit*	5.52 x 10° KWH
Proportional Distribution of	
Electrical Energy Per Unit**	
Industrial	2.02 x 10 ⁹ KWH ·
Residential	1.27×10^9 KWH '
Commercial	0.88 x 109 KWH
Public Street and Highway Lighting	0.02 x 109 KWH
Other Sales to Public Authority	0.11 x 10 ⁹ KWH 1.22 x 10 ⁹ KWH
Sales for Resale	1.22 x 10' KWH
INDIRECT BENEFITS	

Taxes

See Table 8.1.2-1

5

* Assuming 70 percent capacity factor ** For the period 1986 through 1995

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Docket Nos. 50-400 OL 50-401 OL

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO WELLS EDDLEMAN'S REVISED, AMENDED AND ADDITIONAL CONTENTIONS BASED ON EDDLEMAN CONTENTION NUMBER 15" 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 11th day of March, 1983:

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