

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

June 26, 1983



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

In the Matter of

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

Dockets 50-400 OL
50-401 OL

Motion for Extension of Time
Re second round of interrogatories on environmental
contentions, by Wells Eddleman

Wells Eddleman hereby requests an extension of time 15 days after the receipt of answers⁶⁷ pursuant to motions to compel to his previous interrogatories on contentions 29, 37B, 75, 80, 83/84 and other contentions classed as environmental per the Board's 3-10-83 Order, and an extension until July 20, 1983 to file additional interrogatories (a second round) re Eddleman 29 and 37B to Applicants, and to Staff on all environmental contentions.

In support of this request, I show the following: (1) When Applicants or Staff have indicated they were unable to complete responses to my interrogatories by the date due or previously extended, I have granted extensions based on the agreement by staff and Applicants' counsel not to oppose an extension of time past June 30, 1983, for making additional interrogatories on contentions where such extensions were granted. This group includes all the environmental contentions cited above. Counsel for Staff, and Applicants' counsel handling each set of responses, have agreed

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not to oppose **an extension** of time but see p.4 re Applicants' views now.

(2) I have entered into negotiations with Applicants concerning their responses to numerous of my interrogatories, particularly regarding certain answers and virtually all their objections. Due to constraints on their attorneys' time and my time, we have not completed negotiation on any of these by June 20, 1983 (10 days before June 30). I have made over a dozen phone calls, and had at least six negotiating sessions so far concerning these answers and objections, both in person and in extended phone conversations. Applicants have in some cases agreed to supplement or amend their answers, but those supplements and amendments have not been received in time for me to prepare responses and additional interrogatories to any extent by June 30, due to my other responsibilities (see below).

As of June 22, 1983, I had received no responses from the Staff. Staff counsel advised me that it would be mid to late June before such responses could be expected, and that Staff was unable to respond earlier to my 5-6-83 interrogatories. Thus there is not enough time to get any motions to compel that may be required re any Staff responses ruled on by June 30. ^(June 24) Staff expects to file them the week of 6/27.

(3) In just this proceeding in the month of June I have the following to complete: review of control room design/contentions; 2.758 petition and affidavits (a very extensive effort); response to DEIS (filed June 20 under an extension of time); further negotiations with Applicants; review of very extensive amounts of documents provided by Applicants (I have had over 2900 pages copied already), plus the usual minor matters like written notice of negotiation, arranging times for review of documents, dealing with attorneys when the documents aren't there due to mixups, misunderstandings, etc; I have also been negotiating with Applicants at their request on

another matter which has required much technical review and consultation on my part. I've also had other work to do, e.g. preparing and filing testimony in CP&L's NC rate increase case, 6/17.

(4) In case this motion or parts of it were denied, I am filing additional interrogatories on June 30. I adopt the position of Applicants that discovery on non-environmental contentions is not interrupted on June 30. I will not, of course, oppose any extension of time to answer these 6/30 interrogatories until the due date of any additional interrogatory responses, where additional interrogatories are allowed under this motion. That is, if the motion is granted and I file additional interrogatories on contention x under it on July 15, no interrogatory on contention x filed on June 30 need be answered until 19 days from July 15.

(5) Applicants and Staff have taken as long or longer to answer my interrogatories than I have to answer theirs, in general. Negotiations with Applicants on their responses have taken a long time, and much of this has been due to unavailability of their attorneys for negotiations (though this is not a fault in my view). I do not believe it will work prejudice to the Applicants, Staff or any party to allow me the additional time requested above to make interrogatories. Only for those responses where I didn't get them until mid-June or later is a single, 3-week extension requested. Only if parts of motions to compel are granted will any other extension be needed.

I have not filed motions to compel re time of answers where the responders said they couldn't finish in time, because it might well take a month or more (14 days to answer, plus time to rule) to even get a ruling, and I thought it would be a waste of the Board's, my, and opposing counsel's time to go through this when those counsel and I had agreed to extend time on responses received close to June 30th.

Concerning additional time for interrogatories after motions to compel were granted (if they were), I have consulted counsel for Applicants and for Staff. Staff counsel agrees that I should have a reasonable time to frame any motion to compel (after receiving interrogatory responses), and a reasonable time to frame additional interrogatories after the Board rules on such motion. (This assumes negotiations before any motion to compel, of course, with motions to compel only on issues such negotiations don't resolve.) Staff counsel does not believe I should be limited to 15 days.

Counsel for Applicants, Tom Baxter, states that he opposes any blanket extension of time to frame additional interrogatories after rulings on motions to compel. As of June 22, he is going to get back to me concerning the requested extension to July 20 re Eddleman 29 and 37B (which includes Applicants getting 19 days therefrom to answer, even if the interrogatories are hand-delivered at the prehearing conference: the 19 days was my idea). ^(June 24) Applicants and I have agreed to both present our next set of interrogatories re 29 and 37B to each other on 20 July. Interrogatories on 75, 80, 83/84 and 64f will be due 30 June unless we agree otherwise on 64f.

I believe that objections can be made to actual interrogatories in a more efficient manner than would the process of motion-to-compel, followed by Board ruling, followed by ruling on whether interrogatories can be asked in light of the ruling (and when), followed by regular objections to the further interrogatories. I do not think that additional complications in discovery are proper, especially in a proceeding where informal discovery has not so far been used (in large part due to the unwillingness of Applicants to participate in it) to any real extent. (I've done a bit with the Staff, but phone costs make it more impractical with them, since their offices are far from me.)

For the above reasons I ask the Board to grant this Motion. This 30th day of June, 1983 *Wells Eddleman* Wells Eddleman

Service list
on letter to
Baxter in same filing