

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION Sent 27, 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

ASLBP No. 82-468-01  
OL

Wells Eddleman's Response to Summary Disposition  
Motion re Eddleman Contention 64F

Although 64F is a safety contention, not an environmental one<sup>1</sup> Applicants moved for summary disposition of this contention on 9-1-83. They assert many "facts"; these establish, however, that the valve with Rulon components is still on their cask -- they merely "intend" to remove it. They appear to have been "intending" that for months<sup>2</sup>, but they do not "intend" to ship spent fuel to Harris at this time (see their Motion of July 8 '83 and accompanying affidavit). Applicants also say in their 9-1 Motion and accompanying affidavit that they intend to only ship spent fuel dry (i.e. in air) for the foreseeable future. (Motion at 6-7; Affid. & paragraph 11, pp 3-4) at paragraph 8, page 3. The existing valve does not meet applicable standards (9-1 Martin Affidavit, paragraph 6) nor do Applicants seek to qualify such a valve. (Motion at 7). I cannot dispute these "facts" since I cannot read Applicants' minds to ascertain their true "intent." Still,

<sup>1</sup>See 2-24-83 special prehearing conference transcript at page 497.

<sup>2</sup>I first learned this at the opening of settlement negotiations this May. Since Applicants' counsel O'Neill quotes my arguments from these negotiations (Motion at 8, footnote 4), which he had asserted should not be revealed to the Board; I view his action as releasing me from any secrecy obligation he sought relative to these negotiations, as he has violated that secrecy himself.

at face value, Applicants' asserted facts establish the following:

1. The valve at issue in Eddleman 64F, the cask pressure relief valve, is still on CP&L's spent fuel shipping cask. Martin Affid, para. 8.
2. This valve cannot meet applicable requirements, nor do Applicants seek to qualify such a pressure valve (or any pressure valve) for use on their spent fuel shipping cask. Martin Affidavit, paragraphs 8 & 11.
3. Because a qualified relief valve is required for wet shipment of spent fuel in their cask, Applicants intend to only ship spent fuel "dry" in their cask. Martin Affidavit, paragraph 7.

Given these facts, it is appropriate that CP&L should be held to the conditions they presuppose (i.e. dry shipments only, and no use of pressure relief valves with Rulon components such as the Target Rock 73-J on spent fuel shipments) for there to be "no issue" with respect to Eddleman 64F. An accompanying Motion by me requests that such conditions be imposed on the Harris operating license relative to permission to store spent fuel on-site at Harris. If Applicants truly stand by their asserted "facts"<sup>3</sup> they should not logically object to such a license condition.

Applicants argue also that the Board lacks jurisdiction because it dismissed environmental contentions re spent fuel transshipment to Harris on the grounds that their NEPA effects had been considered elsewhere. 64F, however, is a safety contention. It is based on the idea that in order to get spent fuel TO Harris for storage (which Applicants still seek approval to do, despite their denials of present plans to do so), the spent fuel shipments must come within 50 miles of Harris (the zone of interest in this proceeding), and safety shortcomings of casks so used could and would imperil the health and safety of residents near Harris. On such a safety issue, this Board must have jurisdiction. The Board can, and should, appropriately condition the Harris operating license (if any issues) to hold CP&L to their asserted "facts" as above. Note 3: I do not concede CP&L's assertions are true.