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UNITED STATES OF AMERICA

July 20, 1984[1]

NUCLEAR REGULATORY COMMISSION

DOCKETED USNRC

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OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

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, Unit 1)	Docket 50-400 OL ASLBP No. 82-468-01 OL

Wells Eddleman's Response re Preamble to Revised Contention 9

The basic question is whether the revised contention on environmental qualification (EQ) of electrical equipment should admit new issues once the Applicants finally file their FSAR update on EQ. Applicants are responsible for when that filing is made; they, not I, have caused the filing date to be inconvenient to the hearing schedule.

Applicants cite the Seabrook licensing Board's order ruling out similar language; but another board disagreed and allowed such language (WHOOPS 3, Dkt. No 50-508, Sept 27, 1983), stating (p.7)

> Petitioner's proposed contention is predicated on the assertion that Applicant is required to comply with 10 CFR 50.49 which provides for establishing a program for environmentally qualifying electric equipment important to safety for nuclear power plants. Subsection 50.49(a) places upon "(e)ach holder or each applicant for a license to operate a nuclear power plant" the requirement to establish a program for qualifying defined electrical equipment.

My position here is the same: the burden is on the Applicants to establish their EQ program and to demonstrate that their electrical equipment is in fact qualified. This Board stated (9/22/82 Order at 38) re Eddleman 9:

> Applicants admit that they have not yet amended their FSAR to show compliance with NUREG-0588 ... Applicants assert, however, that this will be done as a matter of course, and therefore suggest that the contention be dismissed."

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[1]Filing date set per oral order of the Board in conference call

This Board continued (Harris, 9/22/82 at 38)

> We find this approach unpresuasive. Applicants have admitted a deficiency in their FSAR and do not reply that their equipment in fact meets the appropriate standards. If and when that deficiency is corrected, Applicants may move for partial summary disposition on this contention. We therefore accept that portion of Eddleman 9 that alleges a deficiency in the FSAR.
>
> (emphasis added)

I read this to mean that, even had Applicants fully remedied the deficiency in their FSAR that Eddleman 9 (as accepted) alleges, they would only be entitled to partial summary disposition (as to the issue of the FSAR itself, I think). Applicants have not been able to even remedy the acknowledged deficiency in their own FSAR in time to meet the hearing schedule (a schedule based in considerable part on their own suggestions).

The language of the Harris Board (ibid at 38-39) states, "After Applicants amend their FSAR to reflect the qualification of their equipment, Mr. Eddleman can submit contentions of any specific inadequacies in qualification or non-compliance with the regulations based on that new material." This language supports the inclusive preamble to Revised Eddleman 9. It says the FSAR amendment should reflect the qualification of Harris equipment. And then it allows me to submit contentions concerning any deficiencies in qualification or non-compliance with the regulations (in EQ for Harris).

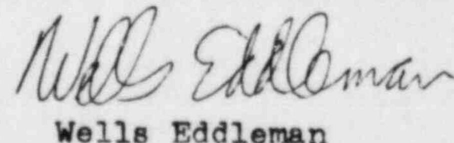
I have cooperated with Applicants in setting out specific progblems with certain systems on which they have provided me information. But they have not produced (and in some cases say they do not yet have) information on certain other systems; nor have they filed the specifics of their EQ program itself. In other words, I have done them a favor by supplying extra specifics before I was required to, based on their xfavor of providing certain information. But in so doing, I was no waiving the right that the Harris Board set forth, to file on "xpecific inadequacies in qualification or non-compliance with the regulations"

The WHOOPS 3 Board addressed the question of vagueness in a similarly worded contention (copy attached) directly (9-27-83 Order at 9)

> Both Applicant and Staff also object to this contention on grounds of specificity. We see no vagueness here. Petitioner asserts that the equipment may not withstand the environment to which it will be exposed and lists a series of reports criticizing the test program it is expected to undergo ... Petitioner's mention of (a specific) requirement is only by way of example ... and petitioner further alleges that the very lists cited by Applicant "do not provide complete information on this matter. ... We believe that adequate ground for further inquiry has been established.
> ~~Wexadmit~~ The contention is admitted to litigation.

Now, it is obvious that contentions based on the information the Applicants may file in amending their FSAR to show the qualification of their electrical equipment for Harris, must be specific themselves. But no specifics can be described about a document that isn't available yet. This Board allowed such specifics to be filed as new contentions when the Applicants did their job of amending their FSAR. All I am asking in leaving the preamble as I want it, is that other specifics can be alleged as new contentions when the Applicants make their filing in their FSAR. That is what the Board has already granted, and I am simply asking that that be preserved. Any new items would be considered contentions filed under the Board's 9/22/82 Order at 38-39. Applicants have the burden of proogf and the burden of fixing their FSAR. I should not be penalized because Applicants have failed so far to file amendments showing that Harris electrical equipment is properly environmentally qualified (or claiming to be such a showing). The Staff (SER, pp 3-47-5x to 51) has held items open on just the qualification information. Thus the Staff's position on the facts gives support to my position, not to the position the Staff has taken supporting Applicants on the preamble to this contention. I hope the Staff's later filing (this date) will be more consistent.

In sum, the premable to Revised Eddleman Contention 9 simply preserves the Board's position of 9/22/82 on this issue: New contentions may be made when Applicants amend their FSAR. This position is supported by the WHOOPS 3 Board position cited above. I should not be penalized for having cooperated with Applicants for their convenience. Their own failure to get their FSAR amended was what caused the schedule difficulties that led to the talks from which Revised Eddleman 9 was synthesized. It should be left as it is.



Wells Eddleman

CFSP 11

Petitioner contends that the Applicant has not shown that safety-related (electrical and mechanical) equipment and components are environmentally qualified to a degree that would provide adequate assurance that the requirements of GDC 2 and 4 of 10 CFR 50 Appendix A are satisfied

Applicant has not demonstrated that the present testing methods used to meet applicable criteria are adequate. Dr. A. Clough, Sandia National Laboratories, has stated that "The present testing methods, underestimates the long-term effects of radiation exposure on polymers by not taking into account dose rate effects amd synergisms that display themselves only in longer test." Industrial Research & Development,

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CERTIFICATEOF SERVICE

I hereby certify that copies of WE Proposed Findings/Conclusions on Contention 8F1 and of Wells Eddleman's Response on Preamble to Revised Contention 9

HAVE been served this 20 day of July 1984, by deposit in the US Mail, first-class postage prepaid, upon all parties whose names are listed below, except those whose names are marked with an asterisk, for whom service was accomplished by moon mail in honor of the 15th anniversary of the first landing on the moon.

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