

ORIGINAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

SHEARON HARRIS NUCLEAR

POWER PLANT

DOCKET NO:

50-400-OL

50-401-OL

LOCATION: RALEIGH, N. C.

PAGES: 2376-2598

DATE: September 5, 1984

TR.01 of 1
Orig to J. Whetstone EW/W-439

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the matter of: :
CAROLINA POWER AND LIGHT COMPANY :
and NORTH CAROLINA EASTERN MUNICIPAL :
POWER AGENCY : Docket Nos.: 50-400 OL
: 50-401
Shearon Harris Nuclear Power Plant :
Units 1 & 2 :
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Raleigh Civic Center
500 Fayetteville Street Mall
Raleigh, North Carolina

Wednesday, 5 September 1984

The hearing in the above-entitled matter was
convened, pursuant to notice, at 9:10 a.m.

BEFORE:
JAMES L. KELLEY, Esq, Chairman,
Atomic and Safety Licensing Board.
DR. JAMES H. CARPENTER, Member.
DR. GLENN O. BRIGHT, Member.

APPEARANCES:
On behalf of Applicants:
THOMAS A. BAXTER, ESQ.,
Shaw, Pittman, Potts and Trowbridge,
Washington, D. C.
MRS. SAMANTHA FRANCIS FLYNN, Esq.,
DALEY HOWARD, Esq.,
Carolina Power and Light
Raleigh, North Carolina

WRBagb2

1 EDGAR M. ROACH, JR., Esq.,
2 Hunton and Williams,
3 P. O. Box 109,
4 Raleigh, North Carolina 27602

5 On behalf of Intervenor Conservation Council of
6 North Carolina:

7 JOHN RUNKLE, Esq.

8 INTERVENOR WELLS EDDLEMAN, Pro Se.

9 On behalf of the Nuclear Regulatory Commission:

10 CHARLES A. BARTH, Esq.,
11 MRS. JANICE MOORE, Esq.,
12 Office of Executive Legal Director,
13 Nuclear Regulatory Commission,
14 Washington, D. C.

15 BRADLEY JONES, Esq.,
16 Regional Counsel,
17 Atlanta Regional Office.

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C O N T E N T S

1				Page
2	Opening Statement on Behalf of:			
3	Conservation Council of North Carolina,			2381
4	by John Runkle, Esq.			
5	Carolina Power and Light Company,			2383
6	by Samantha Francis Flynn, Esq.			
7	Regulatory Staff of the NRC,			2383
8	by Charles A. Barth, Esq.			
8	Witnesses	Direct	Cross	
9	E. E. Utley)			
10	M. A. McDuffie)	2451	2455	
11	Thomas S. Elleman)			
12	Harold R. Banks)			
11	Exhibits			Iden. Evi.
12	Staff 1 SER			2392 2392
13	Staff 5 SER Supplement 1			2392 2392
14	JI Cross 1 Joint Contention 1			2455 2456
15				(2493)
16	JI Cross 2 FERC Form 1			2466 2497
17	JI Cross			
18	3 - 11			2516
19				
20				
21				
22				
23				
24				
25				

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P R O C E E D I N G S

1 JUDGE KELLEY: On the record.

2
3 Good morning. My name is James Kelley. I am the
4 Chairman of this Atomic Safety and Licensing Board.

5 On my right is Mr. Glenn Bright.

6 On my left is Dr. James Carpenter.

7 The three of us comprise the Board.

8 We are here today to begin the second evidentiary
9 session associated with the application of Carolina Power and
10 Light Company for an operating license for their Shearon Harris
11 facility.

12 The next order of business will be to have counsel
13 and representatives introduce themselves for the record. We
14 will go left to right.

15 Do you want to begin, Mr. Runkle?

16 MR. RUNKLE: Good morning. My name is John Runkle.
17 I am the general counsel for the Conservation Council of
18 North Carolina. And on this contention I will be the lead
19 counsel for the Joint Intervenors.

20 MR. EDDLEMAN: I am Wells Eddleman, representing
21 myself.

22 MR. BARTH: Your Honor, I am Charles A. Barth.

23 With me is Mr. Bradley Jones, who is our regional
24 counsel in our Atlanta office.

25 Joining us tomorrow will be Mrs. Janice Moore.

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1 The three of us will represent the Staff in this session of
2 the proceedings, your honor.

3 MR. CARROW: Your Honor, I am Hill Carrow, counsel
4 for Applicant.

5 MR. BAXTER: Thomas A. Baxter from Shaw, Pittman,
6 Potts and Trowbridge.

7 MS. FLYNN: Samantha Francis Flynn, from Carolina
8 Power and Light.

9 MR. HOWARD: Daley Howard, from Carolina Power and
10 Light.

11 MR. ROACH: Also representing the Applicant, Ed
12 Roach of Hutton and Williams on behalf of CP&L.

13 JUDGE KELLEY: Are the tables and chairs
14 satisfactory? Do you have enough space?

15 MR. RUNKLE: I'm having a hard time hearing you,
16 sir. I don't know if we have microphones or what, but....

17 JUDGE KELLEY: The mike I think is just for the
18 camera. Is that correct? We are not being projected in any
19 way.

20 Well, we'll see if we can't speak up a little
21 better. We are always exhorting witnesses to speak up, and
22 the Board can try to do the same.

23 MR. RUNKLE: Thank you.

24 JUDGE KELLEY: We want to thank the applicants for
25 their efforts in lining up this hearing space. It seems to

WRBeb3

1 be very adequate and appropriate space for our purposes.

2 I might just mention that we had some discussions
3 last week about where we would be for the next hearing, which is
4 scheduled to begin on the 10th of October. And as of now it
5 lookslike we will be in the Ramada Inn in Apex, North
6 Carolina, hard by the EPZ. We'll confirm that definitely one
7 way or the other when we have firmer information. We were
8 unable to find suitable space in Raleigh.

9 The hours that we would expect normally to adhere
10 to would be to start at nine o'clock, reasonably promptly,
11 and run until, say, five-thirty or six, somewhere in that
12 range, with about an hour for lunch. If we deviate from that
13 we will let you know.

14 I might just say that next Monday morning the
15 people coming down from Washington, ourselves and the Staff
16 at least, may find it a little difficult to get here at
17 nine. I think there is a flight that gets in at such a time
18 that we could make nine-thirty. Maybe we can confirm that
19 again by Friday, but I suspect we will start a little late
20 next Monday simply so we can come down in the morning. But
21 again we will mention that Friday before we quit.

22 Does anybody here know the rules about locking up
23 this facility, when that happens? We can check into it. I
24 just don't happen to know.

25 MRS. FLYNN: The custodians of this building will

EB/eb 4

1 lock this room in the evening after we've gone, I think at
2 about six-thirty in the evening, and open it again at seven-
3 thirty.

4 JUDGE KELLEY: That sounds fine. So if we ran until
5 about six, we wouldn't have any problem getting out I believe.

6 What about leaving the papers and so on?

7 MRS. FLYNN: It is somewhat at our risk, but they
8 will be locking the doors.

9 JUDGE KELLEY: It is not guarded. They don't
10 guarantee security but if you think a yellow pad is safe, you
11 can leave it here and it will probably be here the next morning.

12 We customarily allow counsel or representatives to
13 make a brief opening statement. And this morning, Mr. Runkle
14 for the Intervenors will begin a brief statement, and we may
15 or may not have a reply from the Applicants and/or the Staff.
16 So why don't we go to that now?

17 OPENING STATEMENT ON BEHALF OF THE
18 CONSERVATION COUNCIL OF NORTH CAROLINA

19 by John Runkle, Esq.

20 MR. RUNKLE: Back in 1979 at the remand hearings
21 on the construction permit, there were questions raised about
22 Carolina Power and Light's capacity to safely manage the nuclear
23 plants that they have already in operation, the Brunswick
24 reactor and the Robinson reactor down in South Carolina.

25 Since that time -- and our evidence will bear this

WRB/eb5
1 out -- there have been a lot of changes made and there have
2 been repeatedly many problems, and some of these problems are
3 major problems which have endangered public health and public
4 safety.

5 In collecting material for this hearing and in
6 reading it in the last week and a half or two weeks, I am
7 surprised how much has gone on and how many problems we have.
8 You are looking at the systematic assessment of licensee
9 performance. There have been four issued so far. The first
10 three have shown how poorly CP&L has managed the plants.

11 The last one which we received a week ago we really
12 have not had time to assess but it shows that there has been
13 marked improvement.

14 We find this last SALP Report to be scary.
15 Honestly, it is a scary report. In this the NRC says that it
16 will no longer have to keep monitoring Carolina Power and
17 Light's performance of the nuclear reactors, and we feel of all
18 the contentions raised in this proceeding, this is the one
19 that will kill the plant.

20 Carolina Power and Light has proven over history,
21 over time, that they cannot manage their plants safely, and
22 that is what we're bringing to you today and in the next
23 couple of weeks, the management incapability of the Applicant.

24 Thank you.

25 JUDGE KELLEY: Mrs. Flynn.

eb6

1 OPENING STATEMENT ON BEHALF OF CAROLINA POWER
2 AND LIGHT

3 by Samantha Francis Flynn, Esq.

4 MRS. FLYNN: Applicant believes that the testimony
5 of the witnesses who will be appearing on behalf of Carolina
6 Power and Light Company and North Carolina Eastern Municipal
7 Power Agency in this proceeding clearly demonstrate that
8 Carolina Power and Light has the capability to successfully
9 and properly manage its nuclear facilities including the
10 Harris plant; that the Harris organization will have adequate
11 staff, fully qualified to safely manage the operation of the
12 Shearon Harris Nuclear Plant.

13 Thank you.

14 JUDGE KELLEY: Thank you.

15 Mr. Barth.

16 OPENING STATEMENT ON BEHALF OF THE REGULATORY
17 STAFF OF THE NRC

18 by Charles A. Barth, Esq.

19 MR. BARTH: Your Honor, we would like to reply very
20 briefly.

21 First, the contention before us now, Intervenors'
22 Contention Number 1, is whether or not the Applicant has the
23 capacity, the technical capacity, safely to operate the Harris
24 facility. What happened in 1979 is no longer at issue here.

25 There was a formal hearing in which evidence was

WRB/eb7

1 presented and the Licensing Board issued an initial decision
2 finding they were qualified at the time to construct and
3 operate the Harris facility. That issue is not before us.

4 I would like to jump the gun slightly to the Staff's
5 case.

6 The last SALP report, the Systematic Appraisal of
7 Licensees' Performance, which was turned out by the Atlanta
8 Regional Office, does not contain any statement whatsoever
9 that the Staff would no longer monitor the individual power
10 plants. Indeed, we will testify, and I proffer this now,
11 that we have put more inspectors at the Carolina Power and
12 Light sites than any other sites which we have.

13 We also intend to propose to put another inspector
14 at the Harris site. That will make three construction
15 inspectors, your Honor, the most detailed monitoring by the
16 Nuclear Regulatory Commission of any power plant facility
17 under construction in the United States.

18 Thank you, your Honor.

19 JUDGE KELLEY: Thank you.

20 I would assume that the SALP report at some point
21 will become an exhibit.

22 MR. BARTH: Yes, your Honor. We propose to submit
23 that as part of the Staff's direct case. We have served
24 copies of the SALP on all the parties.

25 JUDGE KELLEY: To the extent that it is subject to

WRB.eb8

1 interpretation, sometimes that's true, if it says what it says.
2 And we'll find out. Thank you very much.

3 We have a couple of procedural issues to speak to,
4 I think, fairly briefly.

5 First of all we had a dispute arise last week among
6 counsel for the parties about the questioning procedure in
7 connection with the panels that the Applicants propose to
8 present as their direct case, and the issue revolved around
9 how many different counsel -- and when I say "counsel" I mean
10 attorneys at law -- or representatives, meaning non-lawyer
11 but a party like Mr. Eddleman, for example, would be allowed
12 to direct cross-examination questions to a particular panel.
13 And there was a range of options presented, ranging from just
14 one counsel or representative, not only per panel but per
15 contention, meaning in this particular part of the case, to
16 a sort of intermediate position whereby you have one counsel
17 questioning one panel and perhaps a different counsel questioning
18 another one, and then a third, sort of more open option
19 whereby it would just be one counsel per witness.

20 And we discussed that at some length on the
21 telephone and the upshot of all of that was that the Board
22 ruled that we would have one counsel per panel, subject to the
23 possibility of a good cause shown whereby another counsel could
24 step into the breach because the lead counsel was just
25 unavailable for one reason or another, subject also to the

WRB/eb9 1 obligation of the counsel stepping into that particular role
2 of questioning a particular panel that he or she familiarize
3 himself with the record already made so that there would not
4 be a lot of conflicting questions.

5 I might just add that should this arise, should
6 the Intervenors want to make a substitution, you can borrow
7 a transcript from us and see what has transpired if the person
8 who comes in wasn't there, like the day before. But that may
9 or may not arise.

10 In any event we would anticipate that we will be
11 having one counsel per panel.

12 Let me just ask for information, Mr. Runkle, are
13 you or Mr. Eddleman leading with Panel Number 1?

14 MR. RUNKLE: I will, sir.

15 JUDGE KELLEY: All right, fine.

16 We had a little bit of experience with panels in
17 June. I might just add the presentation of witnesses on
18 panels is a very conventional proceeding in NRC cases, simply
19 because the subject matter of so many of these contentions is
20 very complex and often you need two or three or more people
21 to get a complete picture on one particular technical point,
22 and maybe even more in the case of an issue like management
23 capability, which is less precise even in some of its aspects,
24 a rather amorphous topic. So we are going to be having the
25 panel procedure employed here.

WRB/eb10

1 One can devise various rules and I suppose
2 sub-rules for how the whole process works. I think it might
3 suffice to say at this point that we do want to ensure that
4 the counsel conducting cross-examination has some reasonable
5 degree of control over the process and to that end, when you
6 put a question, for example, Mr. Runkle, on this first panel,
7 if you wish to you may to whom you want to direct that
8 question, and then that witness will either reply or, if he
9 can't, say so.

10 Once the designated answerer though gives his or
11 her answer, at that point the other members of the panel should
12 step in and add whatever they want to add if they have
13 anything to add on the point at issue.

14 The main purpose of the panel device is to get all
15 in one place in the record, in a fairly short period of time,
16 what the company has to say, in the case of the company, on a
17 given point rather than swear in individual witnesses, one
18 after the other and spend, I can assure you, a good deal more
19 time going over the same ground.

20 So we will have that procedure whereby you can
21 direct questions but then others may comment and add as they
22 choose.

23 If we need further groundrules as we go along, I
24 am sure we can develop them without too much difficulty.

25 On the question of time limits, we don't propose

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2 to adopt any particular time limits for questioning this
3 morning. We have got the authority to do that or as has been
4 done in other cases where the case seems to be progressing at
5 a satisfactory pace, we can say X hours for this panel and Y
6 hours for the next one, based on our assessment of the subject
7 matter that is being covered, and subject to some other
8 principles that allow sufficient flexibility.

9 That is to say, though, there is something we can
10 do if we need to. We are not going to do that this morning.
11 If the case moves along reasonably well, we expect we will
12 have no occasion to do that.

13 Just in a very general way, we have an outside
14 parameter. We have a schedule under which we are starting
15 today, and we have a schedule further on that says we are
16 starting on the 10th of October for the next hearing, and it
17 also says we have a three-week break between the two. So we
18 have allocated roughly a couple of weeks for hearing this
19 contention. And we should be able to tell as it goes along
20 how we are doing.

21 But those are the rough time frames in which we
22 are thinking that we may get through. It is possible we may
23 take longer, but that at least is sort of a guidepoint.

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1 It's the custom of NRC Boards like this one during
2 the course of the hearing to schedule some limited appearance
3 sessions, and I think most of you probably know what that is.
4 It's simply an opportunity for interested members of the public
5 to come in and say what they want to say about a particular
6 project whether it be pro, con, or neutral.

7 We have not had such a session so far. Our hearing
8 back in June on the environmental matters was very brief. It
9 didn't seem like a very good time to try to do that. Sometime
10 in the course of this session or the next one, if you would
11 like to have -- really we would like to have at least one
12 such session.

13 I'm going to ask the parties -- well now one thing
14 we can do -- we've done it in other cases -- is to have an
15 evening session or sessions if that is preferable.

16 Do intervenors have any views on when and how we
17 could present limited appearances. What would your preference
18 be?

19 MR. EDDLEMAN: We prefer it be in connection with
20 the next phase of this hearing. The Ramada Inn in Apex, I
21 presume, is available in the evening and maybe we can set
22 something up down there.

23 JUDGE KELLEY: Okay. Any thoughts from the staff?

24 MR. BARTH: No, your Honor.

25 We have no objection, your Honor, to an evening session

pp2

1 for the purpose of taking limited appearance statements, It's
2 entirely at the discretion of the Board.

3 JUDGE KELLEY: Do you have any preference between
4 this next couple of weeks or October?

5 MR. BARTH: October would seem better time,
6 your Honor, since we will be at Apex and that's more local to
7 the site.

8 JUDGE KELLEY: All right.

9 MRS. FLYNN: Applicants agree that October would
10 be the better time.

11 JUDGE KELLEY: At Apex?

12 MRS. FLYNN: Yes. And it would give more advance
13 notice.

14 JUDGE KELLEY: That's true. We could put a notice
15 out three or four weeks in advance.

16 Okay.

17 Very briefly we want to acknowledge receipt --
18 Mr. Eddleman served on the board and all parties this morning
19 a second round of interrogatories for production of documents
20 dated September 5, 1984.

21 That's just for the record.

22 We have one other matter on our list. Mr. Barth,
23 you wanted to introduce that SER and supplement, I believe?

24 MR. BARTH: Yes. One of the commission's regulations
25 require that the staff offer into evidence at an operating

pp3

1 license hearing the Staff's safety evaluation report and
2 any supplements.

3 I propose to call Mr. Buckley, who is the editor and
4 collator of the two reports, to sponsor these, unless counsel
5 will agree, as we did previously, that the Staff
6 may offer these into evidence and the Board may receive them
7 subject to such resolution of contentions as have been accepted
8 by the Board.

9 JUDGE KELLEY: That is to say, should a portion of
10 that document become a subject of controversy and then, say,
11 there's an objection to it, we can hear the objection then.

12 MR. BARTH: No, your Honor. I was thinking that, for
13 instance, a safety evaluation report has a discussion of
14 emergency planning, and the Intervenor's have contentions on
15 emergency planning. The evidence that is before the Board on
16 emergency planning will be that presented by the Staff and the
17 Applicants rather than that in the SER. So all the rights that
18 these people have to challenge the SER by the contentions
19 that were admitted will remain.

20 JUDGE KELLEY: Is the SER being offered for any
21 evidentiary purpose or merely to satisfy the requirements to
22 put it in the record?

23 MR. BARTH: The latter, your Honor.

24 JUDGE KELLEY: Any objection to that?

25 MR. RUNKLE: No objection.

pp4

1 MRS. FLYNN: No objection,

2 JUDGE KELLEY: Fine. It is so ordered.

3 MR. BARTH: Thank you, your Honor. I've provided
4 the reporter with three copies. The Staff Safety Evaluation
5 Report will become Staff Exhibit No. 4 in evidence and the
6 Safety Evaluation Report Supplement No. 1 will be Staff
7 Exhibit No. 5 in evidence and they will be appended to the
8 record we are now compiling as exhibits, your Honor.

9 (Whereupon, Staff Exhibits 1 and 5
10 were marked and received into
11 evidence.)

12 JUDGE KELLEY: Okay. They are so numbered and
13 admitted for the purpose you indicated

14 MR. BARTH: Thank you, your Honor.

15 MR. EDDLEMAN: We would like to clarify that in
16 stipulating we don't necessarily agree with anything that it
17 says, your Honor.

18 JUDGE KELLEY: That's right, you don't have to, given
19 the limited purpose for which it's coming in.

20 MR. EDDLEMAN: Right.

21 JUDGE KELLEY: We have another matter here that
22 perhaps you're going to have to hear from Counsel, Mr. Eddleman,
23 on. And that concerns the request for subpoenas that were
24 filed by Mr. Eddleman with respect to Contentions No. 41
25 and 65. Are those the right numbers?

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MR. EDDLEMAN: Yes, your Honor.

JUDGE KELLEY: We are stepping away from management capability for the moment and looking at an issue that arises in the context of the next evidentiary hearing.

The Board is simply aware of the fact that the request has been made, that Counsel of the Applicants and the Staff oppose the request. We did indicate, however, that rather than receive written pleadings spelling out all these various objections and answers, we would simply hear people orally and then decide on the basis of the record that is made here.

So at this point -- we have Mr. Eddleman's request before us. I think it might be most orderly to go to Mr. Baxter, or is it Mrs. Flynn, on this particular point. And then perhaps Mr. Barth and Mr. Eddleman could reply after we have heard from those two Counsel.

MR. BAXTER: I have some general points to make, Mr. Chairman; first with respect to the subpoena requests and then I am prepared to address each of the 20-some individuals who have worked on the Shearon Harris project. Mr. Eddleman has asked the Board to issue subpoenas.

First, I understand what the Board is doing. It is attempting to cut through, which we endorse, some of the procedural hurdles that normally would ensue because of the short length of time available for this hearing.

pp6

1 The Board could sign subpoenas, we could move to quash,
2 Mr. Eddleman could respond, we could hear more argument, at
3 some point and still have another uncertainty. What we're
4 trying to do today, as I understand it, is to cut through
5 that process and hear all the arguments pro and con right now.

6 I think we are also talking, to some extent-- Since we
7 are talking about not subpoenaing witnesses during the
8 discovery process with deposition appearances, but, rather, to
9 present evidence at the hearing I, think we should consider,
10 to some extent, the likelihood that the witness, once he or she is
11 here, is going to be able to present testimony that would not
12 be stricken because it is cumulative or repetitious of
13 testimony that we or the Staff are already going to present;
14 and the Board clearly has the authority under 2743C of the
15 Commission's regulations to not admit unduly repetitious
16 testimony.

17 It has the authority under 2.718C to rule on offers of
18 prove and receive evidence, and require offers of proof,
19 whether it be through cross examination or direct evidence,
20 Or, in this case, subpoenaing possible witnesses. And under
21 2.757 to limit the number of witnesses whose testimony may be
22 cumulative.

23 In the case of these two contentions we're talking about
24 construction issues. As the Board no doubt knows, the
25 construction of a nuclear power facility today involves the

pp7

1 preparation of hundreds and thousands of documents with respect
2 to the construction of a plant, the inspection of that
3 construction work and the engineering work that goes along
4 with it.

5 These documents are accompanied by, and include, hundreds
6 and hundreds of signatures of various individuals. It simply
7 cannot be, I propose, the case that the only showing of relevance
8 to require the testimony in the hearing before this Board
9 is the fact that someone's name appears somewhere in the
10 documentation in connection with the concrete in contain-
11 ment structure or in connection with 18 thousand pipe hangers
12 and their welding in the plant.

13 So what we are doing today is objecting to the issuance
14 of the subpoenas, because we think there has not been a showing
15 of relevance and because we think any testimony these
16 witnesses might present would be repetitious of testimony
17 we will present.

18 JUDGE KELLEY: Let me ask you a question. And this
19 may be a question of both Mr. Eddleman and Mr. Baxter. As you
20 know, we've heard argument on the set of subpoenas in
21 connection with the management contention ten days ago, or
22 whenever it was, and with the expectation that we could hear
23 the argument and decide the issue of the upper bound. And we
24 ended up walking away from it because we felt we really didn't
25 didn't really know enough to decide the point. It arose out of

pp8
 1 the ~~file that~~ the objection essentially, or at least in large part,
 2 was that it would be cumulative, be repetitious. And here
 3 we are as a Board: We've read some written testimony, we
 4 haven't heard any cross, we don't have any confident feeling
 5 one way or the other whether it would be cumulative or not.

6 Now, I realize it has been official that this is -- to
 7 decide this as soon as you can. To decide who's going to
 8 be at the hearing as soon as you can. But if we're going to
 9 hear argument this morning on whether Mr. Smith or Mr. Brown's
 10 testimony is going to be cumulative or not, on concrete pouring
 11 or welding, this Board quite frankly isn't going to have any
 12 idea one way or the other, I don't think.

13 Now, the alternative is not terribly attractive. That is
 14 to say, wait until after you put your case on and then we'll
 15 hear the argument. But at least there's one alternative and
 16 then we know pretty clearly whether it is cumulative or not.

17 Do you think we ought to try to grapple with -- if the thrust
 18 of your objection is "cumulative, repetitious, too many witnesses
 19 on the same thing," should we really try to resolve that now
 20 or should we wait?

21 MR. BAXTER: Well, I think it might be worth the
 22 chance that you feel confident enough to rule at this point
 23 for this reason: I think these are all names that have been
 24 selected off of documents. And we have no explanation here from
 25 Mr. Eddleman as to what he thinks these people are going to

pp9

1 testify to. At least where previously we did have the
2 opportunity in the case of the Staff subpoenaed witnesses on
3 management Mr. Runkle described in writing why he wanted them
4 to orally describe -- why he wanted the CP&L witnesses. We
5 have no indication other than the fact that they appear on
6 documents somewhere.

7 And in connection with the concrete, for instance, all
8 these concrete pour packages are going to be put into evidence.
9 These people's names appear somewhere in there but there is
10 no indication -- the facts are clear as to what the documents
11 speak to. We're not questioning their authenticity. They are
12 ours. We're going to put them in. The people that are going
13 to be here can answer as to what those forms say.

14 It's not a matter of getting someone else's judgment or
15 opinion, as it might be, in the management area. But we think
16 these are very factual kinds of things.

17 So I would think there may be a chance the Board could
18 decide here, as opposed to in the management case, early that
19 these subpoenas need not be issued.

20 JUDGE KELLEY: Do you think we could get to the nub
21 of the matter, Mr. Eddleman?

22 MR. EDDLEMAN: I'd like to respond specifically to that
23 statement and then answer your question.

24 The people whose names appear on these documents have
25 firsthand knowledge of what went into the documents. This is

pp10

1 not the case in general with the witnesses Applicant is
2 putting on. However, I would argue that this whole thing,
3 to answer your basic question is, irrelevant. In CFR 2.728
4 says, and I appreciate the Board's effort to cut through a
5 lot of the complexity of this, I'm not challenging that
6 explicitly here, but in CFR 2.728 says, " Onapplication of
7 the party the presenting officer will issue subpoenas
8 requiring the appearance and testimony of witnesses or the
9 production of evidence. The officer to whom application is made
10 may require a showing of general relevance, And shall not
11 attempt to determine the admissibility of evidence."

12 My argument is that his -- as to the witness Mr. Baxter
13 has proposed, of course, the standard is different than the
14 Staff witness. All I've got to do is show general relevance.
15 The questions of whether it might be cumulative, repetitive
16 or irrelevant after the witness takes the stand will depend on
17 that testimony from the stand and can't be decided until the
18 person testifies.

19 If they want a motion to quash there are standards for
20 that too. I think if they want to get a subpoena denied they
21 should have to amend a standard required to have motion before
22 the proceeding because otherwise I wouldn't be having the same
23 rights that I have under the regular full scale rules.

24 MR. BAXTER: If Mr. Eddleman were correct, it would
25 be an absolute unfettered right for Intervenors to list an

ppl1

1 unlimited number of people whose names they obtained from
2 construction documents, and essentially bog down
3 down any NRC hearing by a process of having to require
4 the witness to come and only consider the cumulativeness
5 and repetitiousness of the testimony after an hour or two
6 of that witness s examination and subject to a motion to
7 strike on the other side.

8 JUDGE KELLEY: Well, I understand the point.
9 Mr. Eddleman, I have a little difficulty with it. If you're
10 saying that once the Board issues a subpoena you have the right
11 to put a witness on the stand and, after they start talking,
12 then the Board could decide, "I've heard this already before,"
13 and excuse the person, right?

14 MR. EDDLEMAN: No Judge, that's not exactly what
15 I'm saying. What I'm saying is, as far as issuing a subpoena,
16 all that is required by the rules is -- it doesn't absolutely
17 require them, but it says the presiding officer may require a
18 showing of general relevance.

19 JUDGE KELLEY: Okay.

20 MR. EDDLEMAN: It says general relevance; okay?
21 If I show that under the full scale rules that we're sort
22 of short circuiting here, a subpoena would be issued. And
23 then it says -- this is Subsection (f) of 10 CFR 2.720:
24 "The motion to quash must be promptly made at or before the time
25 set for the subpoena. The presiding officer may grant the

ppl2

1 motion to quash as unreasonable or not relevant to any matter
2 in issue." So according to the standard, it has to be
3 irrelevant to the matter at issue or it has to be unreasonable.
4 Now, if Mr. Baxter has already indicated that it's
5 unreasonable I'm willing to argue that with him, or I'm
6 willing to argue later, whatever the Board thinks is
7 appropriate. But that's the only standard I think that he
8 has got to stand on if he doesn't want these subpoenas to be
9 issued.

10 MR. BAXTER: As I previously read to the Board,
11 Section 2.757 says, "To prevent unnecessary delay
12 or an unnecessarily large record, the presiding officer may
13 limit the number of witnesses whose testimony may be
14 cumulative, and may strike argument as repetitious, cumulative,
15 or irrelevant, as well as require offers of proof.

16 JUDGE KELLEY: The difficulty there is, you have two
17 provisions of the NRC rules of practice that don't precisely
18 dovetail. There are a lot more. They aren't very well written:
19 everybody knows that.

20 But we have got this problem here this morning. It's a
21 practical problem. You want to bring these people in and he
22 doesn't want you to. And the legal point being made, as I
23 understand it, is, you would say that the Board has to make a
24 finding of unreasonableness in order to prevent this.

25 MR. EDDLEMAN: I believe so.

pp13

1 JUDGE KELLEY: The Board can consider that, I've
2 been in cases where a limited number of witnesses-- There has
3 been a list presented of 55 and I said "Make it thirty." And
4 that's the end of that.

5 But that's just my own history. The Board can
6 rule. Why don't we go ahead --

7 MR. EDDLEMAN: May I make one comment on what
8 Mr. Baxter said?

9 JUDGE KELLEY: Yes.

10 MR. EDDLEMAN: As I understand it, of course I'm
11 not a lawyer, but I understand that when you have two
12 provisions of the rules and one is more specific and
13 directed to an issue than another, the more specific provision
14 governs. And this specific provision about subpoenas is
15 the one that I'm citing.

16 JUDGE KELLEY: That's one principle of inter-
17 pretation of the rules. I have forgotten what the contrary
18 one is, but I can assure you there is one.

19 Okay.

20 But I will hear about why you think this is
21 cumulative, Mr. Baxter, and then Mr. Eddleman can respond
22 as he chooses.

23 MR. BAXTER: Let me address Contention 65 first,
24 Mr. Chairman.

25 The issue there is whether 13 concrete pour

pp14

1 packages which we have produced for Mr. Eddleman during
2 discovery show that there is an improper concrete placement
3 in the base mat of the containment structure of the plant, so
4 that there might be significant unknown honeycombing of below-
5 strength concrete.

6 We are putting these 13 concrete pour packages into
7 evidence. Mr. Eddleman is sponsoring a witness whose
8 testimony analyzes the 13 concrete pour packages. The Staff
9 has a panel of three witnesses who analyzed these 13 concrete
10 pour packages. We have a panel of witnesses to include
11 Mr. Ken Harris, the Manager of Civil Engineering for
12 Ebasco, Mr. Parsons, Civil Engineer and Project General
13 Manager in the construction of Harris, and Mr. Garner, who is
14 a Construction Inspection Supervisor and was employed as
15 a civil construction inspector during the construction of
16 the containment. He was involved in inspection, surveillances,
17 review of procedures, and actually viewed the one instance of
18 honeycombing and repair of the base mat.

19 The people who have been identified by Mr. Eddleman
20 have signed in various capacities some of the documentation
21 that is included in these pour packages that are going into
22 evidence. It's our contention that they have nothing to add to
23 the record that couldn't be contributed by Mr. Garner, who has
24 been the construction inspection supervisor and inspector,
25 who is in a supervisory role over some of these people who

pp15

1 actually did do some inspection and surveillance in determining
2 the placement of the concrete. So he has first-hand visual
3 experience. But beyond that, it is not necessary for the
4 record to have, in live testimony, every person who poured
5 concrete and inspected the concrete placement in order to
6 have reasonable assurance that the building has been
7 adequately constructed.

8 We have two instances, of the 8 people listed on
9 Contention 65 as persons no longer employed at the Shearon
10 Harris facility, or by CP&L, for that matter, anywhere
11 else.

12 In connection with Mr. Strickland and Ms. Woltz
13 there's a typographical error in Mr. Eddleman's list: it is
14 not W-o-t-t-y, it is W-o-l-t-z.

15 MR. EDDLEMAN: I had to take it off the signature.
16 I'm sorry.

17 MR. BAXTER: Those two people are involved
18 with testing the concrete, and filled in the numbers on the
19 forms that you see. They have no authority to exercise any
20 other judgments with respect to the adequacy of the concrete or
21 in accepting the concrete. --one way or the other. The
22 other people who are involved in inspector roles, as I said,
23 have no information that is not otherwise available to
24 Mr. Garner. They would simply be reading what they wrote
25 back in 1978 through 1982 when they did these inspections.

pp16

1 And Mr. Garner is equally able to read those forms and
2 interpret them for the Board.

3 JUDGE KELLEY: In making your argument here,
4 Mr. Baxter, your statement that these people really can't
5 add anything -- have you talked to them personally or is this
6 based on what your knowledge of their job is?

7 MR. BAXTER: I've talked to every one of them.

8 JUDGE KELLEY: All right.

9 MR. EDDLEMAN: Where these people's names appear,
10 the Board is aware I tried to get a number of these people
11 deposed. I was opposed by the Applicants until discovery
12 was over and I can't do it. The Board upheld that position.
13 However, I think, and Mr. Baxter may have his opinion as to
14 what these people can add to the case, but one thing that
15 is important to understand about these subpoenas: they are
16 my case and not his case. And to the extent these people
17 have direct experience -- As for example, I think Mr. Breedlove,
18 he signed a very large number of these pour packages. He
19 did a lot of the checking. His signature appears in numerous
20 places on a number of these statements including inspector --
21 as construction inspector.

22 It's very clear that he has the direct experience of
23 these things and there are a number of other cases. There
24 are things that are wrong with the reports that these people
25 signed or things that certainly appear to be wrong. And one

pp17

1 of the things I want to know is, well, why did you sign that
2 report? Did you notice that this number appeared to be wrong?
3 Did you notice that this thing was a problem? I want to know
4 from the person whose signature appears there, not from some
5 one who's placed higher or up or the general manager of the
6 project or a civil engineer with Ebasco, how this happened.
7 And I think that's directly relevant.

8 I'm also interested in Mr. Baxter's statement that these
9 people have no authority to exercise judgment. Especially
10 since a number of these people are QA, QC inspectors. I
11 think that this is something that definitely needs to be
12 explored to the extent there are problems in these packages.
13 How come is it that these QA, QC inspectors didn't have
14 any authority to do anything but write numbers down? It
15 does not appear to be consistent with the procedures which
16 were laid out for doing this.

17 MR. BAXTER: Mr. Eddleman has mischaracterized
18 what I said. I was talking about lab QC inspector and the
19 field QC inspector who performed tests on the compressive
20 strength. All she does is test them on a break machine and
21 writes the numbers down. And the field QC inspector does the
22 test of temperature, air content, unit weight, and he
23 writes down the numbers. That's my point and that is exactly
24 what the procedure calls for in determining the results of
25 the construction inspection and others within the organization

pp18

1 who may or may not accept the specimen.

2 But I think it's clear from Mr. Eddleman's argument in
3 support of his subpoena that we are attempting to continue
4 discovery here. And it's not our fault that Mr. Eddleman
5 did not timely seek and obtain copies of these documents
6 or make a timely effort to depose these people. But he had
7 18 months to do so. But instead waited until after the time
8 ran out. And he has no idea whether or not these people
9 have any evidence that is going to help him in his case. And
10 he is asking the Board to take up hearing time for his fishing.

11 MR. EDDLEMAN: Mr. Baxter's characterization at
12 this time sort of supports the fact that he does not
13 have to produce the stuff. It's part of the reason why
14 time ran out. I certainly agree that if I were more able
15 I could have done a better job. What I'm asking the Board
16 to do is the job that I can do. I think I have the right
17 to put my case on. I think I've shown that these people's
18 testimony is relevant. I think the question is, is it
19 unreasonable. I don't propose to keep most of these people
20 on the stand for a long time. Most of them, they are very
21 simple questions that can be asked and gotten into the
22 record. But I think the direct evidence is necessary. I
23 also think that, as Mr. Baxter replied about well, these people
24 put the numbers down and then somebody else accepts or
25 rejects them, I've got the somebody else on the list too, in

ppl9

1 most of these cases. If not all. Now, I've tried to do that
2 so that, whoever did it, . I think that the question still
3 remains, if there is something wrong with that, how could he
4 cite it?

5 MR. BAXTER: One last point, Mr. Chairman. when
6 Mr. Eddleman speaks about his right to put his case on, his
7 case was due to be filed on August 9th, 1984 at the same time
8 as the rest of the parties. And he filed the testimony by
9 his witness, Charles Stokes, at the same time we filed our
10 testimony. He then waited until he reviewed our testimony
11 and is now picking up Applicant's witnesses, essentially
12 trying to pick Applicant's witnesses in support of his own case.
13 If he were interested in subpoenaing these people in support
14 of his direct case, it should have been an integral part of
15 his filing of his direct. He should not have the opportunity.
16 as I do not, to sit back and read his case and then add some
17 more.

18 MR. EDDLEMAN: The rule does not set any time for
19 filing of subpoenas. My practice was entirely consistent with
20 what the Board did in the environmental hearings. For example
21 if what Mr. Baxter would argue here were true, that these
22 people had nothing to add, then he presumably would have
23 filed some testimony, and then I wouldn't have to subpoena them.
24 I cannot tell who I need to subpoena and I think, talking
25 about wasting time, it surely would be more wasteful of time

pp20

1 if I have to try to guess everybody who they might not put
2 on and put those subpoenas in overnight. I did it promptly.
3 It has been in the record since the 17th of August. I don't
4 think there is any real problem with that because there is
5 no set time for it. And we did follow the procedure. We
6 did follow such a procedure in the environmental hearing.

7 JUDGE KELLEY: I think, by way of
8 observation, it might have been better and clearer to have
9 these names in by August. I think the Board, in a
10 pretrial order. We could have had a clearer ground rule. If we
11 didn't do that, it probably was a mistake on our part. But
12 are where we are today. So we'll take the world as we find it.

13 Let me ask you a couple of questions. Among the
14 names that you list, are some more important than others?
15 If you happen to have your druthers, and you didn't have all
16 nine, you could call somebody ahead of somebody else? Would
17 it be possible for you -- not right here on the spot -- but
18 in the next day or two to give us a rank-order list?

19 MR. EDDLEMAN: I think I could do that.

20 JUDGE KELLEY: Of candidates on number 9?
21 In the event that we were to grant some of these subpoena
22 requests, could you then, as a condition -- and we'd
23 condition the subpoena perhaps, putting this as a hypothetical --
24 on your providing some reasonable period in advance of their
25 appearance, a list of the specific questions you want to ask

pp21

1 them, to put them on some notice as to what they are going to
2 be asked about?

3 MR. EDDLEMAN: Judge, I could do that. I don't
4 know that -- well, I guess it's in the nature of prefiled.

5 JUDGE KELLEY: By definition you don't
6 have prefiled; we'll assume they're adverse witnesses. But
7 it's treating them as an adverse witness on what ground you
8 want to cover, so that before they come they can search their
9 own memories about whether they remember anything about
10 some particular pour or not?

11 MR. EDDLEMAN: I can certainly specify the
12 general areas. I'm going to treat them as adverse witnesses
13 I think I'm going to tell every question that I want to ask.

14 JUDGE KELLEY: I didn't mean every single question.
15 But say -- in the first place, you indicated that you
16 had these people on, in the main-- They would not be up there
17 all day. They would be up there for some short hour period
18 of time to ask some fairly specific questions. You would
19 not have to list every single question but you could give
20 a fairly specific outline to what ground you wanted to cover
21 so that the person would know in advance and the applicant's
22 lawyer would know in advance where you're going to go.

23 MR. EDDLEMAN: I could cover the general areas.
24 Of course I would not rule out, if somebody says, well you know
25 there is something else here.

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JUDGE KELLEY: Then you have a follow-up question.

END WRB 2

MR. EDDLEMAN: Right. I could do that.

AGB flws 3

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JUDGE KELLEY: I think we can pass to Number 41. I think we can rule on this tomorrow, if you want to get the transcript -- tomorrow or the next day, put it that way, and we'll get the transcript and have a chance to confer.

MR. EDDLEMAN: Maybe I will mention at this time I made an informal request to be excused the next couple of days on account of a school retreat that I'm on. If the Board does rule in my absence, I would appreciate getting some copy of the transcript to look at or something at some convenient time.

JUDGE KELLEY: Yes. Are you going to be here next week?

MR. EDDLEMAN: I will be here next week, yes, sir.

JUDGE KELLEY: Sure, we could provide a copy.

MR. BAXTER: If the Board does think it might rule I would like to add just a couple of facts which I think might be useful with respect to each of the eight individual --

JUDGE KELLEY: There is still a possibility that we might rule by saying we're hereby deferring these requests.

MR. BAXTER: We have 13 concrete pour packages at issue. Mr. Breedlove is the indicated construction inspector on 10 of those 13 but they do not involve

1 the two base mat cores. Mr. Gardner, our direct witness,
2 was his direct supervisor at the time.

3 Mr. Sealey was the construction inspector on
4 two pours and the construction inspection supervisor on one
5 pour.

6 And I would add that when a person signs as
7 the CI supervisor on these forms, he does not necessarily
8 have the experience of visual observation of the pour but
9 simply is affirming that the information on the inspection
10 report is complete.

11 Mr. Smith was the construction inspection
12 supervisor on three of the 13 pours.

13 Mr. French was the CI inspector on two pours
14 and the CI supervisor on two pours.

15 Ms. Woltz is identified as having conducted
16 the lab tests at the E&E center for slump on five of the
17 13 pours.

18 Mr. Mountcastle, who is no longer employed,
19 was the lab QC inspector, same position, on one pour, the
20 first base mat pour.

21 Mr. Strickland was the field QC inspector,
22 doing field tests on six pours, including both base mat pours.

23 And Mr. Troxel, who is not employed any longer,
24 had the same position as Mr. Strickland on the same two
25 pours, he essentially duplicates Mr. Strickland.

agb3

1 JUDGE KELLEY: The two people who are gone,
2 Troxel and -- Mountcastle was it --

3 MR. BAXTER: Yes.

4 JUDGE KELLEY: Do you know if they are around
5 here?

6 MR. BAXTER: I do not. I have not inquired.

7 JUDGE KELLEY: It might make a difference
8 whether they are in Carolina or California for this purpose.

9 MR. BAXTER: Construction workers do move around.
10 Someone may have their last known address when they left the
11 employ, but I have not checked on that and I certainly
12 wouldn't know whether it's correct.

13 JUDGE KELLEY: Could you let us know tomorrow
14 so we can look it up, or just ask....

15 MR. BAXTER: I can make an inquiry. I have to
16 remind the Board that in previous instances we have asked
17 for confidential treatment of personnel information.

18 JUDGE KELLEY: The only reason we want the
19 information as to whether a person is reasonably accessible,
20 if I could use that term -- maybe their dead, who knows,
21 why argue about it.

22 MR. BAXTER: I'm not sure I'll be able to
23 determine that from their last known address.

24 JUDGE KELLEY: Well....

25 MR. BAXTER: But I will check.

agb4

1 JUDGE KELLEY: Okay.

2 Mr. Eddleman, it would be useful to us I think to
3 have a rank order from you. Do you think by the time we quit
4 today you could take a copy of the names and just put numbers
5 next to them, one through nine?

6 MR. EDDLEMAN: I could try to do that. I would
7 rather --

8 JUDGE KELLEY: I'm thinking about it because
9 you said you're going to be gone the next two days.

10 MR. EDDLEMAN: I understand that. I could try to
11 get it done today. I don't have the pour packages with me.
12 I think I know enough about them to give you a rough rank order,
13 if that would help.

14 JUDGE KELLEY: Does it matter to either side of
15 this dispute whether we rule on this Friday or the following
16 Tuesday?

17 MR. EDDLEMAN: It doesn't matter to me.

18 MR. BAXTER: No. At some point I think the plans
19 here may affect what order we try to arrange for a fair hearing.

20 I also have a copy of the pour packages here if

21 Mr. Eddleman --

22 JUDGE KELLEY: If you can give it to us today, fine.
23 If you can't, then we can wait I guess until next Monday.

24 MR. EDDLEMAN: I'll try to do it at lunch.

25 JUDGE KELLEY: Okay.

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41?

MR. BAXTER: The issue in Contention 41 is whether pipe hanger welds have improperly inspected and approved at the Shearon Harris site.

In connection with discovery, Mr. Eddleman had the opportunity to review somewhere in excess of 14,000 pages of weld documentation. He has filed -- he has not filed any direct testimony but he has filed a pile of documents from those pages we produced for his inspection. They came in no particular order and had no particular thread going through them, which I guess since they're exhibits he's not required to do anyway.

Unlike the 13 concrete pour packages where I can look at them and see where these people's names are, I do not know why these people were selected from the mountain of weld documentation, I only assumed that the names were picked from that list.

And I, of course, have talked to the people and I know what they did, but I have no indication from the papers we have as to what Mr. Eddleman hopes to do with these people.

So in this case, Mr. Chairman, I would propose that he go first.

JUDGE KELLEY: Is that okay with you, Mr. Eddleman?

MR. EDDLEMAN: Fine with me.

MR. BAXTER: I would add first if I might, just

agb6

1 to describe briefly the four witnesses we have on our panel
2 already, we have Mr. Nevill from the Harris Plant engineering
3 section to speak about all the engineering and design and
4 procedural aspects of the pipe hanger welding; Mr. Fuller, who
5 is in the construction section, hanger engineering and has been
6 involved in the pipe hanger program from the beginning.
7 Mr. Timberlake who, interestingly enough, is on Mr. Eddleman's
8 list of subpoena requests, is one of our witnesses also. He
9 is from the construction section and is involved in welding
10 engineering. He is a qualified welder, an engineer and a
11 certified welding inspector and was involved in conducting
12 much of the training of some of the craft and QA people.

13 And we have Mr. Hate, who will speak to all of the
14 quality assurance and quality control issues associated with
15 the pipe hanger welding program.

16 JUDGE KELLEY: Okay.

17 MR. EDDLEMAN: I'll strike Mr. Timberlake from the
18 list, no problem. In fact, it was interesting to me, I wrote
19 the list out and when I went through these two prepare for
20 argument, I couldn't find my reference to him.

21 But let me try to explain what it is I want these
22 people for today. There are certain procedures in here where
23 I refer -- they're mostly down at the bottom of the list -- of
24 certain procedures today: personnel training and qualification
25 data, 16 March 1981. I want to go into why that document

1 appeared at that time, more than three years after construction
2 began and what relation, if any, it had to the discovery of
3 the pipe hanger problem.

4 It seems to me just in general that it's kind of
5 hard to make as large a number of errors as were found in the
6 pipe hangers that were inspected and re-inspected if the
7 personnel had really been properly trained and qualified.

8 The changes to the work procedures --

9 JUDGE KELLEY: Excuse me. Have you got your
10 text of 65?

11 MR. EDDLEMAN: Are you referring to 41, Judge?

12 JUDGE KELLEY: 41. Do you have the text of 41?

13 MR. EDDLEMAN: I believe it refers to QA and QC
14 not being proper because of the "OK" tagging of defective
15 piping or welds. I don't have the exact wording --

16 JUDGE KELLEY: Have you got it?

17 MR. BAXTER: Yes. It says:

18 "Applicant's QA/QC program fails to
19 assure that safety-related equipment was im-
20 properly inspected (e.g., the "OK" tagging
21 of defective pipe hanger welds at SHNPP)."

22 In your ruling accepting the contention you ruled
23 that it doesn't cover the entire QA program but rather is
24 limited to the assertion that there exists defective hanger
25 welds that have been improperly inspected and approved.

agb8 1 JUDGE KELLEY: Now this takes you into -- this
2 isn't to say that it necessarily applies here but it rings
3 a bell in my mind, I know I was in a case on Catawba involving
4 QA and the contention there was basically that there had been
5 a lot of corner-cutting and deliberate bypassing of QA
6 procedures, therefore the plant was unsafe and from time to
7 time we would get into the area of training. Someone would
8 object the contention doesn't say training and the Board would
9 say you're right and we would rule that out.

10 I'm wondering whether the contention as drafted
11 here really speaks to training.

12 MR. EDDLEMAN: Well they have to train the
13 inspectors, too, Judge, and I could get into that with
14 some of these other people and documents, I think.

15 JUDGE KELLEY: But my point is you could have said,
16 I assume, the QA/QC inspectors were improperly trained and
17 therefore they have hung the wrong tag on the pipe hangers,
18 in which case I assume we would look at the training program.
19 But the contention doesn't talk about training, does it, in
20 so many words.

21 MR. EDDLEMAN: The contention says that defective
22 hangers are tagged "OK," it doesn't say why or how.

23 JUDGE KELLEY: Right.

24 MR. EDDLEMAN: It doesn't say training but it
25 doesn't say not training.

agb9

1 JUDGE KELLEY: Right.

2 MR. BAXTER: We have addressed the training to a
3 limited extent in our direct testimony as it plays a role in
4 corrective actions in response to a specific deficiency.

5 JUDGE KELLEY: Again I'm not saying that one governs
6 the other, it just raised a question in my mind.

7 Go ahead.

8 MR. EDDLEMAN: The Field Change Request AS 4294,
9 dated 1/16/84, this is a technical fix for a pipe hanger. One
10 of the questions you get into is whether the thing is okay or
11 not. And one of the things that's very prominent in the
12 documents -- or at least the documents that I received on
13 discovery, I'm not sure it's real prominent in the ones I
14 filed -- is that you'll have a fix that is, they'll say, well
15 the thing is not as originally specified but we want a Field
16 Change Request, we want a permanent waiver, we want some change
17 in the spec that will make the thing okay. And I want to
18 explore that one, to see about its validity.

19 I also was interested in seeing Mr. French, the
20 discipline engineer on the Field Change Requests. I could refer
21 to the document if it will help: FCR AS 334, Revision 1, PWAS
22 446; FCR AS 392, Revision 1.

23 Some of these are pretty frequently used on these
24 pipe hanger welds, and I think there's a problem in how well
25 they're documented. And I think that there's a contrast between

1 that and the 1984 ones, and I want to go into that some. I
2 want to see why that is and whether the others were adequately
3 documented or not, what does he think: you know, if he
4 thinks it's okay he signed it, is it or is it not really okay.

5 Because the question of whether something is
6 defective is not just a question of whether it's built to spec,
7 the way they do these things, they can also change the
8 specifications or change approvals -- and that's done a lot.

9 The weld examination procedure, NDEP 605, I think
10 that pretty well speaks for itself as to why it's relevant.
11 In talking about inspecting pipe hangers, one of the key things
12 that's being inspected on them is the welding and this is the
13 document for welding inspection, dated October 20th, 1982.
14 It's not clear why it took so long to be issued; we have
15 a number of these other documents that were issued, you know,
16 much earlier; there were revisions throughout the life of the
17 plant.

18 But there clearly were a goodly number of pipe
19 hangers already in place in September of 1980 when the NRC
20 Staff inspector first found the problem and at that time I
21 think they pulled a sample of 400 to re-inspect and found 95
22 percent of those defective.

23 And I'm curious as to why it took so long to
24 get this thing established and also whether the personnel were
25 properly trained to deal with it.

agbl1 1 A number of these other people: particularly
2 Mountcastle, Pere -- I think his name is, P-e-r-e -- Tingen,
3 they are people who took inspection training; some of them
4 particularly on September the 12th, 1980, very shortly after
5 the NRC Staff inspector discovered the problem.

6 There are other instances of training in what
7 I've gotten on discovery from the Applicant about the training
8 for the weld inspectors in these documents; it unfortunately
9 doesn't have a real nice number or something, File SH P-1/2,
10 and it refers to training. It gives the hours of instruction,
11 something about the topics covered and who attended.

12 Mountcastle also was the custodian of these
13 notebooks, the 12,000 pages or so of documents that the
14 Applicants provided to me, and I believe he was in charge of
15 rechecking these pipe hangers at the time the discovery took
16 place on those.

17 Let's see, I'm trying to peruse who I've covered and
18 who I haven't.

19 The two welders, Cauble and Warlick, those are
20 in I&E Inspection Report 50-4803 on two corrosion reactor
21 auxiliary belts. I think the direct knowledge that they have
22 of what was going on there is relevant and the NRC found that
23 there were problems there.

24 Let's see...

25 (Pause.)

AGB2/eb1

1 DeBarres and Douglas were the first two people
2 interviewed by the NRC, or the first two on the list
3 interviewed by the NRC on Report 50-482-03, concerning a
4 complaint that the welding inspectors were not performing
5 visual weld inspections properly. I think they have some
6 direct knowledge of what was going on.

7 Let's see. I'm trying to see. We have CQC-19,
8 the weld control. This procedure also has a date, March 16th,
9 1981. They had obviously been welding pipe hangers and using
10 them before that. It is not clear why they didn't have a
11 procedure in place.

12 WP-110. That's the work procedure for pipe
13 hangers, and that's been updated and updated. The last update
14 was in April, 1984; as I understand it, it makes changes in
15 that, and I want to explore why did they make those changes,
16 why didn't they make them earlier, what was the reason for
17 the changes, what effect does that have on the approval of the
18 pipe hangers?

19 That's a brief coverage of this. I may be able to
20 go into some more detail if the Board requests it.

21 JUDGE KELLEY: That's helpful.

22 Why don't we go to Mr. Baxter?

23 MR. BAXTER: Mr. Eddleman has explained why he is
24 interested in talking to some of these people. That is not
25 the purpose of the hearing, to enable Mr. Eddleman to explore

AGB/eb2 1 avenues he hasn't explored previously during the long period
2 of discovery available in the case.

3 And he has not addressed at all why the evidence
4 that is being put on and the witnesses that are going to be
5 put on are not going to be adequate for him to explore these
6 things. Let me go to the procedures first.

7 CQA Procedure 1 on personnel training qualification,
8 the NDEP-605 on visual examination of welds, and CQC-19 on
9 weld control are all procedures which Mr. Hate of the QA/QC
10 Section of the Harris plant is going to be able to answer
11 questions including what does it mean and why was it issued
12 when it was.

13 CQA-1 was authored by Mr. George Forehand of the
14 same QA/QC Section at Harris. Mr. Forehand also originated
15 CQC-19 on weld control.

16 And NDEP-605 was originated by Mr. Edward L. Betts, Jr.
17 who is also QA.

18 My point is, though, why do we need to have the
19 originator or the author when we have a witness from the QA
20 Section who is familiar with these procedures and can answer
21 Mr. Eddleman's questions about it.

22 With respect to FCR AS-4294, the requester of that
23 field change request was Harry L. Williams. He is employed
24 by the Harris Plant Engineering Section, the same
25 organization in which our witness, Mr. Nevill, is employed.

AGB/eb3

1 This is the FCR that led to the most recent weld inspection
2 criteria that is addressed in the Staff's prefiled testimony
3 and which Mr. Nevill, as well as the other witnesses on our
4 panel, should be able to address.

5 Work Procedure 110 on pipe hangers. The originator
6 was not, as is indicated with question marks on
7 Mr. Eddleman's list, Randy Gardner. It was instead
8 Mr. Herron, who is no longer employed with the project.
9 However, Mr. Fuller, who works in Hanger Engineering in the
10 Construction Section, -- he's an engineer -- will be able to
11 answer Mr. Eddleman's questions about that procedure, what it
12 contains and why it was written, and why it was changed when it
13 was changed.

14 Moving back up to the list of names, Mr. DeBarres
15 is no longer employed on the project. He and Mr. Douglas are
16 indicated by Mr. Eddleman as being relevant because they were
17 interviewed by the NRC, as indicated in the inspection reports.
18 Well, that doesn't mean anything.

19 The fact that they were interviewed by the NRC
20 doesn't mean that they have any unique knowledge not available
21 to the witnesses who are going to be presented.

22 In particular, Mr. Douglas has been employed since
23 June '81 in QA at the Harris site. He has never performed QC
24 inspections for weld acceptance since the implementation of the
25 enhanced hanger program in December '83. He is part of the

AGB/eb4

1 QA surveillance group that does surveillances of the QC
2 inspectors' work.

3 Mr. Mountcastle is no longer employed, as I
4 indicated. He is the same Mountcastle listed under Contention
5 65. But as to any of the QA issues, it is our position that
6 Mr. Hate will be able to answer Mr. Eddleman's questions on
7 the pipe hanger.

8 Mr. Pere has been a QC welding inspector or
9 supervisor on the site since May 1979. I have no doubt he has
10 some first-hand knowledge about pipe hanger welding as do
11 hundreds of other people at the plant.

12 But as to the witnesses we will offer, Mr. Tingen
13 is right now a lead in the QC Document Resolution Group. He
14 has had that position since March of this year. He was
15 involved in QC welding with respect to pipe hanger inspections
16 from December 1979 through February 1982. From February '82
17 to March '84, he was involved in inspecting piping, not pipe
18 hangers, so his first-hand knowledge is somewhat historical
19 and does not reflect any of the most recent inspections in
20 the enhanced pipe hanger program.

21 Mr. Nevill and Mr. Warlick are no longer employed
22 on the project.

23 Mr. French is listed as the person involved in the
24 Field Change Request. That Field Change Request involved
25 HVAC welding and not pipe hanger welding and is therefore not

AGB/Eb5 1 relevant to the contention.

2 Thank you.

3 JUDGE KELLEY: A question about some of these
4 people. Is it your point that the witnesses that you intend
5 to put on can speak to it procedurally, would be more
6 applicable and more compelling with respect let's say to a
7 procedure than it would be with respect to let's say an
8 individual weld.

9 I assume that these procedures evolved and they
10 started here and stopped there and somebody wrote them and
11 they mean thus-and-so. And that might come from a witness,
12 and you might get the same description or a less well informed
13 one from a lot of other people.

14 But are we dealing here with actual defective
15 welds? I mean are we going to be involved with looking at a
16 weld with a certain number on it, a certain pipe hanger,
17 that there was a lack of fusion or whatever was wrong with
18 the weld and it was tagged "Okay" nevertheless? We are going
19 to be looking at welds? Is that in this case as you see it?

20 MR. BAXTER: We have 18,000 Seismic Category 1
21 pipe hangers at Shearon Harris. Each of them has a number of
22 welds on it. We certainly don't plan to have this hearing
23 be formed for a detailed weld-by-weld examination.

24 JUDGE KELLEY: You're not suggesting weld-by-weld,
25 no.

AGB/eb6

1 MR. BAXTER: We have answered these things
2 programmatically. We have compiled documentary results of
3 what we found in 1980 when we made some changes, and what we
4 found in '82 when we made some changes. And we think the
5 Board should be willing to rely on the reliability of that
6 documentary evidence, absent something countervailing to call
7 it into question, so that we wouldn't have to go through
8 numerous examples of pipe hangers.

9 I do not know what Mr. Eddleman intends to do with
10 the pile of papers he has filed to be used during
11 cross-examination.

12 JUDGE KELLEY: The reason I'm getting at it is if
13 we're going to talk about a particular weld and we've got some
14 documentation on it and it had some defect in it but
15 nevertheless it was tagged "Okay," it would be one thing for
16 a fairly high-level supervisor to come in to a panel and say
17 "This is the way we do it and that's what we get," but he has
18 never even seen this weld.

19 And it is another thing to bring in a welding
20 inspector or a welder and say to him, "How did that happen?"
21 And suppose he says, "Well, it was defective, and the weld
22 didn't fuse but the supervisor told me to okay it anyway,
23 so I did."

24 I'm not suggesting that that can happen,
25 but if you have the supervisor he might say everything was

AGB/eb7

1 fine. The welder might say it was a defective weld. So I am
2 troubled about the notion of relying for complete adequacy
3 of the testimony of a managerial-level person when it comes
4 to welds.

5 MR. BAXTER: But we don't have those kind of people,
6 Mr. Chairman.

7 JUDGE KELLEY: I didn't say you did.

8 MR. BAXTER: These four witnesses are all younger
9 than I am. They work in clodhoppers and blue jeans, and they
10 are field people out at the construction site. The two
11 engineers in the Construction Section are involved in the
12 actual field checking of the hangers themselves as well as
13 reviewing programmatic problems.

14 And Mr. Timberlake, as I indicated, is a qualified
15 welder. That's not what he does. He doesn't weld at the
16 Shearon Harris plant.

17 But we have no indication that what you hypothesize
18 there has taken place. I mean maybe if Mr. Eddleman has
19 any evidence that that has taken place then maybe you do have
20 to examine a welder.

21 JUDGE KELLEY: That's my question.

22 MR. BAXTER: But you don't just start out in a
23 hearing, it seems to me, theorizing that to be the case and
24 let's bring in a bunch of welders and see if it might be --

25 JUDGE KELLEY: I agree with that, too.

AGB/eb8

1 MR. BAXTER: -- absent any basis.

2 JUDGE KELLEY: I want to know if it is in the case.
3 Do you think you have evidence of individual defective welds
4 that you want to tell the Board about?

5 MR. EDDLEMAN: Yes. And some of these people,
6 particularly Mountcastle, Pere and Tingen, have signed on to
7 some of these things. Just to give you an example, there's
8 some cases in here where you have something where you have an
9 inspection on the report, and the inspection says "This is
10 okay."

11 And you have a reinspection and the reinspection
12 says "Well, there's a defect here and a defect there, and
13 another one and another one," you know, sometimes one or two,
14 sometimes a lot more. They previously said it was okay. I
15 think that was what the contention was about. And these are
16 some of the people who actually did those inspections according
17 to these reports.

18 MR. BAXTER: But that's a matter of record in our
19 testimony. It is acknowledged that there were reinspections
20 that showed previously unknown deficiencies. We talk about
21 that. We talk about how many, what percentage of some of the
22 hangers experienced this, and what we did to correct the
23 situation.

24 So we don't have to have welders come in or
25 inspectors come in to say that there were hangers approved

AGB/eb9

1 that were subsequently on reinspection shown to be defective.
2 We say so in our testimony.

3 We should just talk about what we did to resolve the
4 situation and why the reinspections now give us the confidence
5 that we have adequately identified them in each instance.

6 MR. EDDLEMAN: Well, the dates of these things vary
7 a great deal. It would appear to me from just looking at them
8 that they went on and on and on. And I think that's in part
9 what the contention is about. Do these people know how it went
10 on?

11 JUDGE KELLEY: I think you've answered my question.
12 In your case, as you see your case, it is not strictly
13 programmatic and procedural but, rather, was looking at
14 particular welds, if you are allowed to put them on the way
15 you want to.

16 MR. EDDLEMAN: Yes, sir, if I could get it in that
17 way, yes. I don't claim that we have to have the Board or
18 somebody go out and actually look at the welding. That may
19 come up. But I do think that the things that these people did
20 are relevant.

21 JUDGE KELLEY: Who did the particular welds.

22 MR. EDDLEMAN: Yes, inspected them.

23 JUDGE KELLEY: As to those who have left,
24 Mr. Baxter, I think you said were no longer employed, no
25 longer at Shearon Harris. Is that right?

AGB/eb10

1 MR. BAXTER: Yes.

2 JUDGE KELLEY: Could you check on them, too, as
3 to the last known-- Do you know where they are?

4 MR. BAXTER: Yes.

5 JUDGE KELLEY: Mr. Eddleman, as to these people
6 also, you might do seconds rather than firsts. If you could
7 give us some sort of priority ranking of these people, I think
8 that might be helpful.

9 MR. EDDLEMAN: I can try to do that, too. You say
10 you want the 65 first?

11 JUDGE KELLEY: That's a shorter list. Maybe it is
12 easier to do today. Then if you came in with these the first
13 of the week, that would be all right.

14 MR. EDDLEMAN: All right.

15 JUDGE KELLEY: Gentlemen, we think we have heard
16 enough. Is there anything else you want to say on these
17 two points?

18 MR. BARTH: The Staff would like to address it,
19 your Honor.

20 JUDGE KELLEY: I'm sorry. Sure, go ahead.

21 MR. BARTH: With all due respect and deference to
22 counsel for the Licensee, the Applicant in this case, your
23 Honor, we do not see the matter as stated and argued by
24 counsel. The subpoena request by Mr. Eddleman dated August
25 17th, 1984, was for subpoenas for witnesses for his direct

AGB/eb11

1 case.

2 In response to a statement by Mr. Baxter,
3 Mr. Eddleman stated, "These subpoenas are for my case, not
4 Mr. Baxter's case." That in our mind is the issue, and
5 presents a single, clear, distinct legal issue before this
6 Board. Will this Board abrogate 10 CFR 2.743(b)?

7 In order to make a correct case, a party is
8 required to prefile written direct testimony for his case in
9 chief. The deadline for that filing by this Board was
10 August 9. No prefiled testimony was submitted by
11 Mr. Eddleman in regard to these subpoenaed persons for his
12 direct case in chief.

13 This is a substantive rule of the Commission. This
14 is not a procedural rule which may be waived. It can be
15 altered. There is no question that your Honor and the bench
16 before me has the authority to change the date. The date set
17 in the regulations I cited is 15 days prior to the commencement
18 of this hearing. To set a different date but a date which
19 exceeded those 15 days would not prejudice the parties.

20 I would like to point out, your Honor, that at
21 Baltimore Gas and Electric's Calvert Cliffs Nuclear Power Plant,
22 4 AEC 243 and 244, 1969, the predecessor Commission to the
23 Commission before which we are now employed, clearly stated
24 that Licensing Boards are not empowered to amend the rules or
25 regulations on a substantive matter.

1 I would like to point out this has been further
2 continued in Wisconsin Electric Power, Point Beach Nuclear
3 Power Plant, Unit 1, 16 NRC 1245 and 1263, 1982. The Appeal
4 Board very clearly stated that Part 2 regulations are not
5 guides; they are to be followed. They express the substance
6 of the Commission's desires as to how--

7 JUDGE KELLEY: We can accept the general
8 proposition, Mr. Barth. I think you are absolutely right.
9 How does it apply to this problem? Could you point me to a
10 place where we said in so many words file your list of
11 witnesses that you want to subpoena by August 9th, 1984?

12 MR. BARTH: As I stated previously, your Honor,
13 the witnesses for his case in chief, and Mr. Eddleman has now
14 stated these people are for his case in chief. His case in
15 chief under 10 CFR 2.743(b) must be filed at least 15 days
16 prior to the commencement of this session. The subpoena rule
17 to which he has referred does not apply to the situation
18 which he is characterizing. That is a subpoena to be issued
19 for a hostile witness which he needs in order to make his
20 case.

21 In order to do so, he must make a proffer as to
22 why he needs that witness and why that witness will not come.

23 JUDGE KELLEY: You are getting ahead of me. Where
24 does it say in 2.743(b) that you have to file a list of people
25 you want to subpoena?

AGB/eb13 1

2 MR. BARTH: Your Honor, I have not discussed a list
3 of subpoenas. I have discussed the substance of his direct
4 case. These people will talk. That is his direct case. Who
5 the body is is irrelevant.

6 What he is attempting to do at this time as he has
7 stated in response to Mr. Baxter is he is wanting to bring
8 these people in to make his direct case.

9 JUDGE KELLEY: Right.

10 MR. BARTH: The Commission has said his direct case
11 must be made by filing written direct testimony 15 days prior
12 to the commencement of this session.

13 JUDGE KELLEY: Where has it said that? It hasn't
14 said it in 743.

15 MR. BARTH: Each party shall file written
16 testimony at least 15 days in advance of the session of the
17 hearing in which the testimony--

18 JUDGE KELLEY: But by definition, Mr. Barth, you
19 can't file written testimony from a witness you are going to
20 subpoena who is hostile to you. He is not going to sit down
21 and write testimony.

22 MR. BARTH: First, your Honor, let me address that
23 there is no showing these people are hostile. In regard to
24 my own witness, he has not approached Mr. Maxwell and asked
25 Mr. Maxwell would he appear and testify for him. He has no
idea whether Mr. Maxwell will or will not. According to the

AGB/eb14

1 record at the present time, there is no evidence that he is
2 hostile.

3 As I told the Board, the situation has arisen
4 before in Zimmer and in that--

5 JUDGE KELLEY: Didn't we hear this argument on the
6 phone last week?

7 MR. BARTH: Yes, your Honor.

8 JUDGE KELLEY: It is already on the record then.
9 I understand your point. I personally do not agree with it,
10 but I understand it, and I think it has been stated before on
11 the record.

12 You are saying under 743 this should have been done
13 by the 9th of August. Right?

14 MR. BARTH: Not should, must, your Honor.

15 JUDGE KELLEY: Must. Okay. Either way.

16 MR. BARTH: And in Zimmer how this was addressed
17 was that the counsel who wanted a witness who was hostile
18 and would not come made a proffer of what that witness would
19 testify to so there would be a general showing of relevance
20 and need for the witness to be brought in.

21 JUDGE KELLEY: That is one way to do it.

22 MR. BARTH: I think there is no other way that I
23 know of.

24 I would also like to point out further, so that I
25 have a complete record if you need it, your Honor, that in

AGB/eb15

1 Nadar versus NRC, 513 F. 2d 1045 and 1051, 1975, this matter
2 was again looked at as to the efficacy of the agency's rules.
3 And the Court held that the NRC must follow its own ruling.

4 I do not think that this Board can abrogate the
5 rule the Commission has set forth in substance which is that
6 a direct case must be made 15 days prior to the commencement
7 of the session. If the subpoenas were signed and issued that
8 would be abrogated very clearly to the substantive detriment
9 of both the Applicant, the Licensee, and to the NRC Staff.

10 We would have no knowledge, no way to prepare. I
11 think this is a real derogation of the agency's substantive
12 rules, not of their procedural rules.

13 JUDGE KELLEY: Well, when you say you have no
14 knowledge and no way of preparing you are just not correct.
15 Now we talked earlier about if we granted a subpoena requiring
16 the applicant for the subpoena to file in advance some outline
17 of what the witness was expected to talk about,--

18 MR. BARTH: In our view, your Honor, no talk at
19 this time will satisfy the Commission's substantive regulations.
20 I will pass on to the second point if I may, sir.

21 JUDGE KELLEY: That's a very wooden reading of the
22 rules, Mr. Barth, in my view. We will certainly take that
23 under advisement.

24 MR. BARTH: Sir, as I look at the letter by
25 Mr. Eddleman to the Bench, August 17th, 1984, in which he

AGB/eb16

1 requests subpoenas, it states:

2 "With respect to Staff Inspector George
3 Maxwell, he has direct knowledge of, one, how the
4 pipe hanger weld defects were first discovered and
5 CP&L's response to these discoveries...."

6 I would point out, your Honor, that Mr. Eddleman is
7 referring to Inspection Report 81-22, this inspection report
8 which occurred three years ago. Mr. Maxwell did make an
9 inspection. He did notice a problem, and the Atlanta Regional
10 Office sent a team out to investigate that problem. That team
11 was headed by Jerome J. Blake.

12 Mr. Blake is a witness whom the Staff will proffer
13 in regard to its weld testimony. There is no knowledge
14 Mr. Maxwell has that Mr. Blake does not possess. There is no
15 showing that Mr. Blake is not competent or capable of testifying
16 as to what was found and what Weld Inspection 81-22 some years
17 ago--

18 JUDGE KELLEY: I'm sorry, the 81- --

19 MR. BARTH: The 81-22 does not appear in
20 Mr. Eddleman's August 17th letter of 1984, your Honor. I
21 acknowledge the case. That is the inspection report to which--
22 It was 80-22, not 81, one year too late. That is the
23 inspection report which occurred four years ago.

24 JUDGE KELLEY: I guess I am still behind you.

25 There is a reference in Mr. Eddleman's pleading to

AGB/eb17

1 this report?

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MR. BARTH: That is his statement as to how the
pipe hanger weld defects were first discovered.

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JUDGE KELLEY: In the course of argument?

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MR. EDDLEMAN: He is referring to my letter of

End AGB 2

August 17th, on the first page, Judge.

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AGBpp 1
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1 JUDGE KELLEY: All right, go ahead.

2 MR. BARTH: The reference made there by Mr. Eddleman
3 is to a 1980 inspection report. Mr. Maxwell did find a
4 violation. That violation was inspected by the Atlanta office.
5 The team that inspected it was headed by Jerome J. Blake.
6 Mr. Blake was one of the witnesses which the Staff will have.
7 There's no knowledge of that defect which Mr. Maxwell will have
8 which is not possessed by Mr. Blake. In order to subpoena a
9 Staff witness the regulations require they have particular
10 personal knowledge not known to the other people. That
11 does not occur here.

12 JUDGE KELLEY: I thought, though, from the last
13 discussion that Mr. Maxwell would be a witness.

14 MR. BARTH: Mr. Maxwell will be a witness for the
15 staff on management, your Honor. This was an arrangement --

16 JUDGE KELLEY: That was on management. That was
17 just on management. Now, we're focusing on Mr. Eddleman.

18 MR. BARTH: I'll make a third point, your Honor.

19 JUDGE KELLEY: Can I slow you down just a minute.

20 MR. BARTH: Certainly, certainly.

21 JUDGE KELLEY: Well, why don't we hear from
22 Mr. Eddleman on the Maxwell request, since you just finished
23 talking about Maxwell -- you did, right? You make your
24 basic point about Maxwell?

25 MR. BARTH: Yes, your Honor. I have two more to

1 make on this but it would be appropriate for Mr. Eddleman to
2 comment now.

3 JUDGE KELLEY: I just thought we would keep the
4 Maxwell part all together.

5 MR. EDDLEMAN: Let me first address what may be a
6 minor point. Mr. Barth says how do I know whether Maxwell is
7 hostile. Well, I've dealt with Mr. Barth entirely on this.
8 It's been my understanding of him since very early in this
9 case that I'm not to contact his personnel. If I want to
10 talk to one of them or get information from one of them, I'm
11 supposed to contact him. That's what I did. And I think
12 the letter shows -- let's see where I've got it. Yeah, on
13 page 2 of the letter in the middle, contention 41, in the
14 middle of page 2 of the August 17th letter to the Board,
15 cover letter for the subpoena requests. It says, "George
16 Maxwell, NRC staff. Note: The staff and I
17 currently have a question of whether they would voluntarily
18 produce him under discussion but no decision had been reached.

19 Now, irrespective of whether he may or may not be
20 personally hostile and I've known him a long time and I've
21 never felt any personal hostility from him, or as a legal
22 matter, I don't know what that means exactly, but I don't
23 want to comment on that.

24 JUDGE KELLEY: What it usually means, and I'd be
25 happy to be corrected by Counsel, if you call a witness, if

pp2

pp3

1 the witness is somebody who -- whose testimony you need, or
2 you think you need, but you have no reason to think that
3 they're on your side, then you can ask them cross examination-
4 type questions, rather than non leading-type questions.
5 That at least is one meaning of the hostile witness, whether
6 it has any practical application in this case. Apart from
7 that I don't know.

8 MR. EDDLEMAN: Does it have anything to do with
9 whether they will appear voluntarily if you have somebody
10 to show up and they say, no I won't do it, does that tend to
11 make him hostile or does that have anything to do with it?

12 JUDGE KELLEY: I think the usual connotation of
13 hostile witness is somebody you can question "under the rule."
14 The rule meaning you can use leading questions. Is that
15 a fair oversimplified discussion of hostile witnesses?

16 Hearing no dissent, go ahead.

17 MR. EDDLEMAN: At any rate, I would be willing to
18 examine Maxwell any way the Board rules, if he appears. I
19 am sort of baffled by Mr. Barth - saying well Maxwell doesn't
20 know anything that this other inspector doesn't know. Maxwell
21 knows what he saw and Maxwell has been there all the time.
22 He has been there on the site. He knows how CPML management
23 has been acting and reacting, more than anybody from Atlanta.
24 I think he knows by direct personal knowledge.

25 JUDGE KELLEY: Just for the record, Mr. Maxwell

pp4

1 who I know from the Catawba case, it's my impression that he's
2 resident inspector here now, is that correct?

3 Yes, he is.

4 MR. EDDLEMAN: I believe that he has been
5 continuously a resident inspector on the site since -- well,
6 certainly since the date that he discovered these --

7 JUDGE KELLEY: We can establishe it easily enough.
8 Mr. Maxwell,-- I shouldn't ask this indirectly. Can you tell
9 me how long Mr. Maxwell has been resident inspector here?

10 MR. BARTH: He has been Senior Resident Inspector
11 for four years, your Honor.

12 JUDGE KELLEY: Senior. Was he a Junior Resident
13 Inspector prior to that? Four years is the answer to the
14 question.

15 MR. BARTH: Yes, your Honor.

16 MR. EDDLEMAN: If I could then address this 2743
17 just very briefly. As I read it, not being a lawyer, it says
18 in evidence in general, "Every party to a proceeding shall have
19 the right to present such oral or documentary evidence and
20 conduct such cross examination as may be required for full
21 and true disclosure of facts." Section B begins with the words
22 "written testimony." It says, "The party shall submit direct
23 written testimony to the witnesses in written form." And I
24 think that we've already discussed that a person you subpoena
25 doesn't have any testimony. So I can't see that it applies.

1 I'm just baffled.

pp5

2 I don't know if I need to go into any more detail about
3 Mr. Maxwell's direct knowledge. I think his discovering
4 the problem and being there and seeing how the company
5 reacted day in and day out is the main thing that I want him
6 for.

7 JUDGE KELLEY: Maybe I'm not being fair, Mr. Barth.
8 When you made your objection with respect to Mr. Maxwell, I
9 think you were saying that a particular report on pipe
10 hangers were something in which you had not been involved,
11 correct?

12 MR. BARTH: I did not understand what you said,
13 your Honor.

14 JUDGE KELLEY: I'm just doing a -- I'm trying to
15 get a perspective again on your objection to the subpoena
16 for Mr. Maxwell for purposes of contention number 41.

17 And you did refer to a particular inspection report
18 that had to do with pipe hangers?

19 MR. BARTH: Yes, your Honor. 1980 Inspection
20 Report No. 22.

21 JUDGE KELLEY: Okay. And I think you indicated
22 he was not involved in that report?

23 MR. BARTH: Mr. Maxwell went out and inspected and
24 found the problem. As a result of that inspection a
25 specialized team of welding experts were sent out from the

pp6

1 Atlanta regional office headed by Mr. Jerome Blake, who is
2 one of the witnesses we will produce on our case on 41.

3 JUDGE KELLEY: Then my question is, though,
4 that Mr. Maxwell has been Resident Inspector ever since, for
5 the last four years at Shearon Harris?

6 MR. BARTH: Yes, your Honor.

7 JUDGE KELLEY: Are you saying he hasn't looked
8 at a pipe hanger since then?

9 MR. BARTH: Your Honor, he has no knowledge of
10 a material fact on how the pipe hangar well defects were
11 first discovered. Those are Mr. Eddleman's words not known
12 by Mr. Jerome Blake. Mr. Jerome Blake from the Atlanta
13 office is an expert on welding. Mr. Maxwell is not as
14 technically qualified as Mr. Blake. Mr. Blake then went
15 out and looked at the problem, filed an inspection report 80-22.
16 The most technically qualified person in the Nuclear Regulatory
17 Commission to address that well defect is Mr. Blake, who is
18 a specialist in the field, your Honor.

19 JUDGE KELLEY: Yes, but he went out and did his
20 inspection in 1980, right?

21 MR. BARTH: Yes, your Honor. And that is the
22 matter to which Mr. Eddleman refers in his number one in
23 the middle of page 1 on his August 17th letter. He alleges
24 Mr. George Maxwell. He has direct knowledge of how the
25 pipe hanger well defects were first discovered seeking out

pp7

1 response to his discovery. I am informed here, your Honor,
2 that Staff's technical experts in this field are Mr. Jerome
3 Blake and the people from Atlanta that came out to inspect
4 the well and reinspect it, whether or not Carolina Power &
5 Light had remedied the defect.

6 JUDGE KELLEY: What about number 3? Doesn't that
7 encompass that area since 1980?

8 MR. BARTH: These technical experts from Atlanta,
9 your Honor, who are proffered as part of our testimony are
10 the Staff's experts on how these well problems were
11 addressed by Carolina Power & Light. Not Mr. Maxwell. He
12 has no knowledge, to quote the regulation again, of a material
13 fact not known to Mr. Houstrom, Mr. Bemis, and Mr. Blake, who
14 are the experts that we will proffer in this regards.

15 JUDGE KELLEY: I'm still after the time interval.
16 These people you're talking about are from Atlanta, right?

17 MR. BARTH: Yes, your Honor.

18 JUDGE KELLEY: They came in '80 and did this special
19 inspection, right?

20 MR. BARTH: In regards to number 1 in Mr. Eddleman's
21 letter, how the pipe hanger well defects that --

22 JUDGE KELLEY: I'm not interested in number 1 or
23 number 2. I'm looking at number 3. Please focus on that.

24 MR. BARTH: The actual occurrences on site?
25 Insofar, your Honor, as there have been violations in the

pp8

1 welding program since 1980, these matters have been verified
2 and the corrective actions have been verified by both
3 Mr. Maxwell and by the technical experts from the Atlanta
4 regional office.

5 JUDGE KELLEY: You mean every time there's a
6 problem with a pipe hanger wall between 1981 and 1984, the
7 Atlanta people come up and check that?

8 MR. BARTH: Sir, we're talking about
9 violations. Problems is a different matter. We do not
10 cite people for problems. We cite people for violations.

11 JUDGE KELLEY: But the resident inspector looks
12 for problems, doesn't he, which might become violations. I
13 don't understand the Staff's desire to shield Mr. Maxwell
14 from questioning on this contention.

15 MR. BARTH: There is no desire to shield him,
16 your Honor.

17 JUDGE KELLEY: He's the resident inspector. He
18 knows more about that site than anybody else at the NRC.
19 Why can't you put him on the stand. He won't be there very
20 long but why can't you put him on the stand.

21 MR. BARTH: Your Honor, he does not know more
22 about the welding violations -- welding violations than the
23 Atlanta people.

24 Regulations require he has knowledge of a material
25 fact not known to others. He has no knowledge of a material

pp9

1 fact regarding compliance, the remedy of these violations.
2 The violation remedy is approved by the Atlanta regional office,
3 this is Mr. Maxwell participation. Mr. Maxwell does not
4 approve the violation cure. This is a matter which is done
5 in concert with many other people. And I do take exception,
6 your Honor -- though I would like to do it -- to the term
7 shielding. We have offered the very best people that we have
8 and the most knowledgeable experts.

9 JUDGE KELLEY: I simply do not understand why the
10 resident NRC inspector can't take the stand and be available
11 for some questioning, however limited, on contentions of
12 this nature.

13 MR. BARTH: He can or cannot are not applicable
14 words, your Honor. We took the contention and put the very
15 best people we had on it. I would like to point out --

16 JUDGE KELLEY: Are you trying to save us some time?

17 MR. BARTH: I'm trying to give you the best
18 evidence, the best record of the 5EOC556D, which will support
19 the decisions of the Board in the long run.

20 I may make one further comment, your Honor.
21 Although I do not really agree with Mr. Baxter's perception
22 of a legal issue, evidentially yours, I fully agree with
23 Mr. Baxter's view of what Mr. Eddleman is trying to do here
24 is discovery on the stand.

25 Mr. Maxwell has been available for questioning by

pp10
End AGB3

1 Mr. Eddleman through interrogatories or through request for
2 deposition for years in this case regarding this contention.
3 This is no time to start fishing on the stand, to start
4 discovery on the stand, to start trying to find who's who and
5 what's what. The discovery period was to do this. We have
6 a contention before us. In order to make Mr. Eddleman's
7 case, he has had several years to interview people he has
8 named in this subpoena both on behalf of the NRC Staff and
9 on behalf of the licensee to find out if these people have
10 anything to contribute to his case.

11 He has not done so. In spite of your difference
12 and mine, your Honor, it's the view of 2.743 this is no time
13 for Mr. Eddleman to try and start making a direct case from
14 scratch.

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JUDGE KELLEY: Okay. Do you have another point?

MR. BARTH: No, your Honor. I've said everything I can say, perhaps more.

JUDGE KELLEY: Anything else?

MR. EDDLEMAN: One very brief matter, Judge.

10 CFR 2.720(h)(2)(i), Action Needs.

"The Presiding Officer may, upon a showing of exceptional circumstances such as a case in which a particular named NRC employee has direct personal knowledge of a material fact,...."

I think it is direct personal knowledge we are talking about, that that's when a subpoena can be issued for an NRC Staff witness. I think this applies to Mr. Maxwell.

JUDGE KELLEY: Okay. We are overdue for a coffee break.

Off the record.

(Discussion off the record.)

JUDGE KELLEY: Back on the record.

Why don't we take 20 minutes and come back at ten after eleven?

(Recess.)

JUDGE KELLEY: Back on the record.

The Board has gone over its list of preliminary procedural matters. Our expectation would be now that we would move to the first panel. But let me ask first whether

WRB/eb2 1 there are other things that ought to be brought up before we
2 do that.

3 The Intervenors?

4 MR. RUNKLE: Nothing, your Honor.

5 JUDGE KELLEY: Staff, anything else?

6 MR. BARTH: Nothing, your Honor.

7 JUDGE KELLEY: Okay.

8 MRS. FLYNN: No, your Honor.

9 JUDGE KELLEY: So if you would call your first
10 panel?

11 MRS. FLYNN: Mr. Chairman, Applicants call to the
12 witness stand Mr. E. E. Utley, Mr. M. A. McDuffie,
13 Dr. Thomas S. Elleman, and Mr. Harold R. Banks.

14 BY MRS. FLYNN:

15 Q Gentlemen, will each of you please state your name,
16 position and place of employment?

17 A (Witness Utley) I am Edwin E. Utley, Jr.,
18 Executive Vice President, Carolina Power and Light Company,
19 responsible for Power Supply, Engineering and Construction. I
20 work for Carolina Power and Light Company.

21 A (Witness Banks) I am Harold R. Banks, Manager of
22 the Corporate Quality Assurance Department. I work for
23 Carolina Power and Light Company.

24 A (Witness Elleman) I am Thomas S. Elleman. I am
25 Vice President for Corporate Nuclear Safety and Research. I

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1 work for Carolina Power and Light Company.

2 A (Witness McDuffie) I am M. A. McDuffie, Senior
3 Vice President, Nuclear Generation. I work for Carolina Power
4 and Light Company.

5 Q Gentlemen, I call your attention to a document
6 entitled "Applicants' Joint Testimony of E. e. Utley,
7 M. A. McDuffie, Dr. Thomas S. Elleman, and Harold R. Banks on
8 Joint Intervenors' Contention 1 - Management Capability."

9 JUDGE KELLEY: Excuse me a minute.

10 Whereupon,

11 E. E. UTLEY,

12 M. A. MC DUFFIE,

13 THOMAS S. ELLEMAN,

14 and

15 HAROLD R. BANKS

16 were called as witnesses and, having been first duly sworn,
17 were examined and testified as follows:

DIRECT EXAMINATION

18 BY MRS. FLYNN:

19 Q Gentlemen, I call your attention to the document I
20 just referenced, which is dated August 9th, 1984, consisting
21 of 35 pages, and four attachments.

22 Mr. Utley, does this document represent testimony
23 prepared by you, Mr. McDuffie, Dr. Elleman and Mr. Banks, or
24 under your supervision?

25 A (Witness Utley) Yes, it does.

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WRB/eb4

1 Q Do you have any changes or corrections to make to
2 this testimony, Mr. Utley?

3 A I have one minor change that I would like to make.
4 That change is on page 16, about six or eight lines up from the
5 bottom, where I state that I have been chairman since January
6 1981. That should be 1983.

7 Q Does any other member of the panel have a change
8 or correction to the testimony?

9 A. (Witness Banks) Yes, I have.
10 On page 3 on the fourth line, after where it says
11 "Mr. Banks," it says "during ten of those years." That should
12 be nine.

13 Q Gentlemen, with those changes, is the testimony
14 true and correct to the best of your knowledge?

15 A (Chorus of "Yes.")

16 MRS. FLYNN: Mr. Chairman, I move that the testimony
17 identified as Applicants' Joint Testimony of E. E. Utley,
18 M. A. McDuffie, Dr. Thomas S. Elleman and Harold R. Banks on
19 Joint Intervenors' Contention 1 - Management Capability, be
20 admitted into evidence and specifically incorporated into the
21 transcript as if read.

22 JUDGE KELLEY: It is so ordered.

23 (The document follows:)

24

25

August 9, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

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

) Docket No. 50-400 OL
)
)

(Shearon Harris Nuclear Power Plant,)
Unit 1))

APPLICANTS' JOINT TESTIMONY OF E. E. UTLEY,
M. A. MCDUFFIE, DR. THOMAS S. ELLEMAN AND HAROLD R. BANKS
ON JOINT INTERVENORS' CONTENTION I (MANAGEMENT CAPABILITY)

JOINT TESTIMONY OF E. E. UTLEY, M. A. MCDUFFIE,
DR. THOMAS S. ELLEMAN AND HAROLD S. BANKS

Q1. Please state your name, business address, and position with Carolina Power & Light Company and describe your educational background and professional experience.

A1. Mr. Utley:

My name is E. E. Utley. My business address is Carolina Power & Light Company, 411 Fayetteville Street, Raleigh, North Carolina. I am Executive Vice President, Power Supply, Engineering & Construction.

I attended Louisburg College and North Carolina State University. I have been with CP&L for over 30 years during which time I have been actively involved in the power supply aspects of our Company's business. I have served as superintendent at three of CP&L's fossil plants. In 1972, I was elected as a Company Vice President and in 1977, I was named Senior Vice President in charge of the Power Supply Group. I was named Executive Vice President in charge of the Power Supply & Customer Services Group in 1979. As a result of a corporate reorganization which occurred in mid-1980, that group was reorganized as the Power Supply, Engineering & Construction Group. I am currently serving as CP&L's representative to the Institute of Nuclear Power Operations (INPO) and am Chairman of INPO's Evaluation & Assistance Division-Industry Review Group.

Mr. McDuffie:

My name is M. A. McDuffie. My business address is Carolina Power & Light Company, 411 Fayetteville Street, Raleigh, North Carolina. I am employed by Carolina Power & Light Company as Senior Vice President, Nuclear Generation Group. I received a B.S. degree in civil engineering from North Carolina State University in 1948. I am a registered professional engineer in the State of North

Carolina and a registered civil engineer in the State of South Carolina. I have 32 years experience in the construction of power plants, including 17 years experience in nuclear construction. Prior to joining CP&L, I was employed for 18 years by Ebasco Services Incorporated during which time I served as project superintendent over the construction of Robinson Unit No. 2, CP&L's first nuclear generating unit. I was also involved in the construction of a number of CP&L's fossil plants including Weatherspoon Units No. 1 and No. 2; Lee Units No. 1, No. 2, and No. 3; Cape Fear Units No. 5 and No. 6; Robinson Unit No. 1; Asheville Unit No. 1; Roxboro Unit No. 1 and No. 2. During the years 1968 to 1970, I was Construction Manager for Ebasco and was responsible for the construction of various fossil and nuclear steam electric stations and switchyards on the east coast of the United States. I was employed by CP&L in June 1970 as Manager of Construction in the Power Plant Design & Construction Department. In 1973 I was promoted to Manager, Power Plant Construction Department. In 1974 I was named Vice President, Power Plant Construction Department. In June 1976 I was named Senior Vice President, Engineering & Construction Group, and in August 1983 I assumed my present position.

Dr. Elleman:

My name is Thomas S. Elleman. I am employed by Carolina Power & Light Company as Vice President and head of the Corporate Nuclear Safety & Research Department. My business address is 411 Fayetteville Street, Raleigh, North Carolina.

I have approximately thirty years of professional experience in the nuclear field. I hold a Ph.D. degree in physical chemistry and have worked as Assistant Chief of the Chemical Physics Division of Battelle Memorial Institute, as head of the Advanced Fuels Development Department of General Atomics Corporation, and

as a Professor of Nuclear Engineering at North Carolina State University. From 1974 to 1979, I served as Department Head of the Nuclear Engineering Department. I left there in 1979 to accept my present position at CP&L. I am a certified health physicist, a former chairman of the North Carolina Radiation Protection Commission, and a member of the Nuclear Advisory Council established by Governor Richard Reilly of South Carolina.

Mr. Banks:

My name is Harold R. Banks. My business address is Carolina Power & Light Company, 411 Fayetteville Street, Raleigh, North Carolina. I am employed by Carolina Power & Light Company as Manager - Corporate Quality Assurance.

I have 20 years of naval experience. During 10 of those years, my work was directly related to naval nuclear reactors. While in the Navy, I qualified as a senior reactor operator and as an instructor. For four years I also served as a Nuclear Ship Superintendent and was responsible for the construction, quality assurance, and startup of new submarine nuclear plants as well as for the overhaul and repair of operating submarine nuclear plants. I joined CP&L in 1968, and since that time, I have been actively involved in the Company's quality assurance program. As the Project Resident Engineer during the construction and startup of H. B. Robinson Unit No. 2, I had responsibilities relating to quality assurance and I also served as a QA Resident Engineer at our Brunswick plant. In 1971, I was promoted to Manager - Quality Assurance in the Power Plant Engineering & Construction Department, and later, I was named as Manager - QA & Training Audit for the Special Services Department. In 1976, I was named Manager - Nuclear Generation. I also served for fifteen months as the General Manager of the Shearon Harris Nuclear Plant before I was named to my current position in February 1981.

Q2. Mr. Utley, please state the purpose of the testimony which will be given by Carolina Power & Light Company in this hearing on Joint Contention I in the Shearon Harris operating license proceeding and briefly summarize the testimony.

A2. Mr. Utley:

Joint Contention I, in effect, challenges CP&L management's capability to safely operate the Shearon Harris plant because of past occurrences at CP&L's other nuclear units. The purpose of the testimony which will be presented by CP&L in this hearing is to respond to that allegation. The testimony will show that CP&L has the capability and the commitment to operate safely the Harris plant. At both the corporate office and at the Harris plant we have organizations that will permit effective management control over, and involvement in, the operation and maintenance of the Harris facility. In addition, we are implementing programs that we have carefully developed for the staffing and training of sufficient numbers of qualified personnel to properly operate and maintain the Harris facility. Finally, CP&L has established various organizations, both on-site and off-site, which provide technical support to the Harris plant and each of our other nuclear plants.

We acknowledge that we have had some difficulties in the past in the operation of the Brunswick plant. We believe, however, that the way in which CP&L has responded to correct those difficulties demonstrates CP&L's management ability and determination to tackle and to resolve successfully the complex problems which face, in varying degrees, all utilities operating nuclear power plants today.

Our experience in operating the H. B. Robinson Unit No. 2, a pressurized water reactor (PWR) of the same general design as the Harris plant, generally has been positive and we believe it is a valid indicator of CP&L's ability to operate the Harris plant in a manner which will assure the protection of the health and safety of the public.

In short, we believe that our management personnel have the capabilities and experience to direct competently our nuclear operations; that we have the quantity and quality of staff to operate safely our nuclear plants; and that our management has demonstrated the flexibility and willingness to change in order to meet the challenges of a complex industry.

CP&L's testimony with respect to these various subjects will be presented by several panels of witnesses. Mr. McDuffie, Dr. Elleman, Mr. Banks and I will testify as to the structure of CP&L's corporate organization responsible for nuclear activities. We will also discuss our management philosophy with respect to nuclear safety and quality assurance and describe the programs that are in place to ensure that these philosophies are implemented.

Next, the Project Managers and Plant General Managers of the Brunswick and Robinson Nuclear Projects, Messrs. Howe, Beatty, Dietz and Morgan, respectively, will discuss in greater detail the organizations, personnel and programs at each of those plants and the operation of those plants from a nuclear safety perspective.

Finally, Mr. Al Watson, Vice President, Harris Nuclear Project; Mr. Jim Willis, Harris Plant General Manager; Mr. Jim Davis, Senior Vice President, Operations Support; and Mr. Wayne Powell, Director of Training for the Harris Nuclear Project, will testify with respect to the organization and staffing of the Harris plant and our corporate training programs, all of which have been designed to ensure the safe and effective startup and operation of the Harris plant.

Q3. Please provide a brief description of CP&L's nuclear experience.

A3. In the 1950s, CP&L participated in a joint venture to construct an experimental nuclear reactor at Paar Shoals, South Carolina. With the success of this venture, CP&L decided to build Robinson Unit No. 2, a 665 megawatt Westinghouse PWR. This unit, which began operation in 1971, was the first

operating commercial nuclear plant in the southeast. We then began construction of the Brunswick plant which consists of two 790 megawatt boiling water reactors (BWRs). These units began commercial operation in 1975 and 1977, respectively. We began construction of the Harris plant in 1978. Originally intended to be a four unit plant, it will now consist of one 900 megawatt PWR.

Q4. Please describe the philosophy and commitment of CP&L's management with regard to the safe construction and operation of its nuclear plants.

A4. CP&L's management has always recognized that proper safety practices and strict adherence to all applicable governmental regulations and CP&L procedures are necessary for the safe operation of its nuclear plants. It is an expressed corporate policy that CP&L will design, construct, and operate its nuclear power plants without jeopardy to its employees or to the health and safety of the public. Pursuant to this policy, CP&L is committed to accomplishing the design, construction, and operation of its nuclear plants in accordance with Nuclear Regulatory Commission (NRC) regulations; to carrying out commitments to NRC Regulatory Guides and engineering and construction codes; and to operating each plant in accordance with the terms and conditions of its NRC operating license. This written policy has been distributed to all appropriate CP&L management and operations personnel.

While adherence to NRC regulations in the conduct of our nuclear operations is essential, we believe that we should strive to excel in those activities and to establish for ourselves standards in excess of minimum requirements where, in our judgment, it is appropriate to do so.

This corporate commitment to safe nuclear operations is supported by the Power Supply, Engineering and Construction Management Philosophy. This philosophy recognizes that those factors that produce efficient operation—namely,

good planning, proper employee training, efficient management controls, accurate specification of responsibilities, and good working relationships among employees—are also the factors that will lead to the safe operation of our nuclear facilities.

Q5. Mr. Utley, please describe the structure of CP&L's organization for management of its nuclear facilities.

A5. Chapter 13 of the Harris Final Safety Analysis Report (FSAR), Amendment 13, dated June 12, 1984 contains a detailed description of our nuclear organization as well as the qualifications of CP&L's management personnel. Sections 13.0 through 13.1.3.2 and 13.4 through 13.5.2.2 of the FSAR are Applicants' Exhibit _____. I will highlight some of its more significant aspects. As shown in Utley et al. Attachment 1 to this testimony, the organizational structure with respect to CP&L's nuclear facilities begins with the Board of Directors. CP&L's Board is a strong one, and it has among its membership well qualified executives. CP&L supplements the Board's experience in nuclear power activities by providing the Board with outside assistance from various consultants. For example, Mr. Lee Sillin, the former Chairman of the Board and Chief Executive Officer of Northeast Utilities and the current Chairman of the Board of the Institute of Nuclear Power Operations (INPO), has been retained to work with the Board and to keep them abreast of nuclear programs.

The Chairman, President, and Chief Executive Officer of CP&L is Mr. Sherwood H. Smith, Jr. As such, he is responsible for overseeing all of CP&L's operations. Mr. Smith is extremely active in the nuclear industry's activities. In June of this year he was elected Vice Chairman of the Edison Electric Institute. Reporting to Mr. Smith are three executive vice presidents and one senior vice president.

As Executive Vice President of Power Supply, Engineering and Construction, I have responsibility for supervising CP&L's power supply, engineering and construction activities. There are five organizations reporting to me which, together, comprise our nuclear program. These are: the Nuclear Generation Group; the Operations Support Group; the Brunswick Nuclear Project Department; the Corporate Nuclear Safety and Research Department; and the Corporate Quality Assurance Department. In addition, the Fossil Generation and Power Transmission Group reports to me. The Power Supply, Engineering and Construction Organization is shown on Utley et al. Attachment 1.

The Nuclear Generation Group is headed by Mr. McDuffie, Senior Vice President. The Robinson Nuclear Project, the Harris Nuclear Project, and various engineering and construction sections comprise this Group.

The Operations Support Group is headed by Mr. James M. Davis, Senior Vice President. The Group's role is to provide technical support services to each of the nuclear sites. It ensures that the plants have uniform and high quality programs for nuclear operator and craft training, emergency planning, radiation control, environmental protection, and nuclear fuel procurement.

Overseeing the Brunswick Nuclear Department is also a part of my responsibilities. This department is headed by Mr. Patrick W. Howe, Vice President, who is responsible for the safe operation, maintenance and modification of the two Brunswick units.

The remaining two departments function as the company's independent review branch. The Corporate Nuclear Safety and Research Department (CNS&R), led by Dr. Elleman, Vice President, has the responsibility for ensuring that the Company's nuclear programs are carried out in a safe, effective manner; for establishing and monitoring the corporate health physics policy; for assessing the effectiveness of

the health physics programs; and for directing a research and development program to assist management in planning for the use of new technologies in the Company's operations. The Corporate Quality Assurance Department (CQA) is led by its Manager, Mr. Banks. The CQA Department is charged with ensuring that corporate and plant procedures are adhered to and that compliance with governmental regulations is maintained. This organization's programs encompass plants under construction as well as those that are in operation. Both of these departments will be discussed later in this testimony.

Q6. Mr. McDuffie, how does the Nuclear Generation Group provide support for CP&L's three nuclear plants?

A6. As Senior Vice President of the Nuclear Generation Group, the operation of the Robinson and Harris Nuclear Projects is under my direct control. In addition, it is the responsibility of the Nuclear Generation Group to provide the three nuclear plants with whatever resources they may request to enable them to carry out modification projects and other activities related to the construction, operation and maintenance of the plants.

Within the Nuclear Generation Group, there are four supporting organizations: the Nuclear Engineering and Licensing Department (NELD); the Nuclear Construction Department; the Engineering & Construction Support Services Department; and the Nuclear Staff Support Section. A chart depicting the Nuclear Generation Group is set forth on Utley et al. Attachment 2.

NELD is headed by Mr. Al Cutter, Vice President, who has extensive nuclear power plant experience. This department supports the three nuclear projects by providing design services and is responsible for procuring and maintaining construction and operating licenses.

NELD consists of four sections and one unit: the Nuclear Licensing Section; the Nuclear Engineering Projects Section; the Engineering Support, Nuclear Plants Sections I and II; and the Safety Review - Nuclear Engineering Unit. The Nuclear Licensing Section provides the Company's principal interface with the NRC and advises the nuclear projects on regulatory matters.

The Nuclear Engineering Projects Section manages contract engineering work and ensures that the three nuclear projects receive the design and engineering support they request.

The Engineering Support, Nuclear Plants Sections I and II provide electrical, mechanical and civil engineering design support as requested by the three nuclear projects.

The Safety Review Nuclear Engineering Unit reviews CP&L plant LERs, NRC notices and bulletins, and information from INPO and other organizations in order to identify potential problems or trends at CP&L's plants and to provide feedback to the nuclear projects in order that any similar problem in CP&L plant systems designs can be corrected. This unit also assures that as low as reasonably achievable (ALARA) concepts for radiation control are considered in engineering designs.

The Nuclear Construction Department is headed by Mr. Sheldon D. Smith, who has over 30 years of construction experience. This Department provides the three nuclear projects with construction procurement services, expediting services, surplus inventory control, contracting services and construction equipment.

The Engineering and Construction Support Services Department is headed by Mr. W. V. Coley who has 25 years of engineering and management experience with CP&L. This Department provides cost control, cost reporting, and estimating and budget preparation services for the Nuclear Generation Group.

To support the three projects, the Nuclear Staff Support Section works closely with the department managers at the nuclear facilities to ensure that programs and procedures are implemented consistently. This Section is also the Company's primary contact with INPO programs. This Section is headed by Mr. J. L. Harness who has over 25 years of nuclear experience.

Q7. Mr. Utley, please describe the other CP&L organizations that provide support to the three nuclear projects.

A7. The Maintenance Support Section, which is within the Fossil Generation and Power Transmission Group, provides maintenance manpower support to the plants during outages and other times when increased labor support is required. It accomplishes this by directing the services of traveling maintenance crews and by coordinating the use of contract maintenance personnel.

The Operations Support Group led by Mr. Davis is comprised of four departments: the Fuel Department; the Materials Management Department; the Operations Training & Technical Services Department; and the Environmental Services Section.

The Fuel Department determines our needs for nuclear fuel and procures nuclear fuel at the lowest cost consistent with quality requirements. It is responsible for all related activities, such as forecasting fuel requirements, ensuring timely delivery of fuel to the power plants, and performing nuclear fuel analyses.

The Materials Management Department is responsible for the purchasing, control, warehousing, distribution, salvage and disposal of Company material requirements, except for generation fuel, power plant construction materials, and land.

The Operations Training & Technical Services Department provides centralized services to the Power Supply, Engineering and Construction organizations for radiation control, chemistry, operator and technical training and emergency preparedness.

The Environmental Services Section provides the scientific expertise which the Company requires to ensure that its construction sites and operating facilities are in compliance with pertinent environmental regulations. Its personnel have expertise in the areas of fresh water and marine aquatic systems, terrestrial habitat, air quality, metallurgy, meteorological and seismic monitoring, and permitting.

Q8. CP&L has made several changes in its nuclear organization in recent years. Please describe the most significant aspects of those reorganizations and CP&L's reasons for making them.

A8. Since the early 1970s, CP&L has maintained a separate nuclear operations organization, with a complete technical support staff. There has been a continuing evolution in CP&L's senior management structure towards consolidation of all nuclear responsibilities within a single corporate group. Our current organization, which was just described in this testimony, reflects the latest of these changes at the corporate office which occurred in mid-1983.

In 1982, CP&L established the Brunswick Nuclear Project, which consolidated all on-site line activities under the responsibility of a single department head and corporate officer, whom we assigned to the site. This department head, Mr. Howe, reports directly to Mr. Utley.

The results of this restructuring have been quite positive. Consequently, in 1983 CP&L assigned Mr. Beatty and Mr. Watson to the Robinson and Harris sites, respectively, as department heads responsible for those projects. They report directly to Mr. McDuffie.

Prior to these changes, there were three departments, managed at the corporate office in Raleigh, to which the operations, engineering, and construction organizations at the sites reported. As our modification programs at the nuclear plants became more extensive the need for greater coordination grew, and this coordination could not be performed as effectively off-site. In order to strengthen coordination and control so as to ensure safe and efficient operations and regulatory compliance, we placed these three functions, as well as outage management and other functions related to planning, control and administration, under a single site manager.

There are, however, several site programs that can best be administered and implemented from a centralized location such as training, quality assurance/quality control (QA/QC), and nuclear safety. We believe the best way to administer these programs is to establish a central support group that defines general program features, ensures appropriate incorporation of advances in the state-of-the-art, and assigns separate units to each of the plants to assist the plants in implementing these programs.

The purpose of consolidating actual plant activities under the leadership of a department head at the plant site was to provide firmer management control over and greater accountability for activities at the plant, thus enhancing its safe operation. By integrating the management functions of the department, the department head is able to assume a more direct role in site operations, especially those activities that provide support to plant operations. This also enables the Plant General Manager to concentrate more attention on day-to-day plant operation and plant performance. There are some differences among the management organizations of the three nuclear projects which reflect the significant activities currently underway at each of them (i.e., maintenance

outages, major modification work, and plant startup and testing). Nevertheless, their structures are substantially similar and they are all alike in that clear lines of authority, responsibility, and communications have been established.

Today, CP&L's nuclear power organization can best be characterized as one of specialization, separation, and consolidation: specialization, because the skills required to manage a nuclear program have become increasingly different from the skills required to manage other conventional generation technology; separation, because we have seen that the pace and the frequency at which decisions must be made require a different set of guidelines and procedures than are sufficient for other parts of our business; and finally, consolidation, because we have recognized an increasing need to pull together under a single senior manager the various organizations involved in our nuclear program.

The current structure of CP&L's nuclear organization reflects, in part, the knowledge of what is required for the safe and efficient operation of a nuclear plant which we have gained through our 25 years of experience in the industry. It is also a response to the numerous regulatory requirements and complex technical issues which have been facing CP&L, and the industry generally, in increasing numbers in recent years, especially since the Three Mile Island incident.

As CP&L has assumed increasing responsibility for the engineering and construction work at its nuclear projects over the years, our staff has also expanded. Due in large part to increased regulatory requirements, our modification and retrofit program has been extensive, and much of the growth in our organization has been due to this work. As an organization grows in size, it is not uncommon that a need to redefine its structure to accommodate the growth will arise. Such has been the case in CP&L's nuclear program.

The objective of any organizational change is to improve the effectiveness of the overall organization. We believe that the changes we have made in our nuclear organization enhance the safety of our plants and improve their operating performance. For example, we have recognized, and management theoreticians have stated, that the greater the rate of change and level of complexity experienced by an organization, the greater the need for autonomy of its managers and for rapid decision-making. By placing the Nuclear Project Managers at the plant sites and by giving them full responsibility over all on-site line functions, we have established an organization that provides the Project Managers with sufficient autonomy to enable them to conduct plant activities more efficiently and safely. Where a nuclear plant is concerned, however, complete autonomy is not permissible and it is not desirable. We, therefore, have our independent oversight groups, such as Corporate Quality Assurance and Corporate Nuclear Safety, which scrutinize the activities at our nuclear plants and assure that our quality and safety programs are being implemented and are operating effectively.

Q9. Mr. Utley, how do you, as Executive Vice President-Power Supply, Engineering & Construction, stay aware of the activities at CP&L's nuclear plants and how do you satisfy yourself that those activities are performed properly in accordance with NRC regulations and CP&L policies and procedures?

A9. There are many ways in which I try to satisfy myself that we are performing our responsibilities in accordance with NRC regulations and CP&L policies and procedures. I conduct nine of our monthly nuclear project senior management meetings at the nuclear sites. These meetings are attended by the senior managers of all three nuclear plants, and we discuss a wide range of relevant issues. These meetings are very valuable in that they provide an opportunity for the project managers to share with each other and with me information about their plants so

that all three projects can benefit from the experience of the others. The managers of NELD, Corporate Nuclear Safety and Research and Corporate QA also attend these meetings, and they discuss safety, quality and regulatory performance issues with us.

I make frequent visits to our three nuclear plant sites. My visits include plant tours to view the construction and startup activities at the Harris plant and I also attend Harris staff presentations on topics such as security, training, and procedure preparation. My visits to the Robinson and Brunswick projects include plant tours as well as presentations on plant conditions. I am also in almost daily contact with the Brunswick senior management, and I discuss plant conditions with the Robinson senior management several times a week.

To ensure that our plants are meeting regulatory commitments, I maintain frequent contact with the management of the Nuclear Regulatory Commission staff. I also am in frequent communication with representatives of INPO. I am the Company's official representative to INPO, and I am Chairman of the INPO Evaluation & Assistance Division - Industry Review Group (IRG), which meets three times a year. I have been a member of this Committee since its formation in 1979, and I have been its chairman since January 1981. The IRG provides management oversight of the INPO evaluations of nuclear plants. As part of this effort, members take turns participating in plant evaluations. My participation in this Committee's work not only provides me with the opportunity to get an inside look at how other companies are operating their plants, but it also provides me an opportunity to meet with my peers and exchange with them ideas on establishing excellence in plant operations. Through this first-hand experience, I am in a better position to compare our performance with that of others and to direct our activities in a manner that allows us to benefit from the good practices and experiences of other utilities.

I routinely review incoming and outgoing NRC correspondence for all three nuclear plants. I also receive various formal reports, including quality assurance reports, which keep me abreast of plant conditions.

It is the obligation of every CP&L employee, and particularly of every CP&L manager, to ensure that work is performed in accordance with applicable regulations, policies and procedures. We have worked very hard over the past two years to improve the discipline of our operations which entails, among other things, that an individual assure himself that he is using the right procedure and that he follows that procedure precisely. Personnel are held individually accountable for ensuring that procedures are followed accurately and are subject to disciplinary action for not doing so.

Ensuring that this commitment to discipline in operations is well understood throughout the organization requires the personal dedication and involvement of all of CP&L's senior managers. We are involved, and we strive to communicate this message at every possible opportunity. We have tried to establish, from the top down, a commitment to the types of programs and work habits that will result in individuals performing their tasks in compliance with all applicable regulations, policies and procedures. Through our training programs and our communications with personnel, we attempt to establish an environment that fosters a commitment to compliance. Through reporting and analysis we identify areas where compliance has not been achieved. When we find such an area, we undertake whatever measures are necessary in an effort to ensure that the particular organization takes appropriate remedial actions.

Q10. Mr. McDuffie, how do you, as Senior Vice President - Nuclear Generation Group stay aware of the activities at CP&L's nuclear plants for which you are responsible and how do you satisfy yourself that those activities are performed properly in accordance with NRC regulations and CP&L policies and procedures?

A10. CP&L's senior management is committed to conducting our nuclear operations in the safest, most efficient manner possible. For this to be achieved, I, as a member of senior management, must demonstrate my personal commitment and instill the same sense of commitment through all levels of personnel working under my management.

When the Company reorganized in August 1983, I shared with my managers several standards of conduct which I expected us to meet in our daily activities:

- (1) Everyone should make every effort to do his job right and to do it right the first time.
- (2) Procedures, schedules, specifications, drawings, manuals, and operating instructions are to be followed verbatim.
- (3) Accountability for tasks should be established and clearly assigned.
- (4) Parameters of quality, cost and schedules should be met.
- (5) Operations should be evaluated thoroughly. Problems should be traced to their root causes so that we can address them rather than merely their symptoms.
- (6) Finally, managers should try to develop organizations that work well internally and communicate well with each other, with CP&L's oversight organizations, and with the NRC.

There are many ways in which I personally stay aware of activities at the nuclear projects and attempt to satisfy myself that we are performing those activities properly.

I like to observe, first hand, the construction and engineering work going on at the Harris site so I generally tour the project at least once a week. Sometimes I do this when I'm at the site for a meeting. Sometimes, I go to the site on weekends. I also try to tour the Robinson project when I am at the site for a meeting.

In addition to my personal observations of site activities, I have frequent meetings and communications with my managers. I often attend the daily morning meeting at Harris, for example. I attend, as a rule, the monthly project review meetings at Harris and Robinson as well as the monthly nuclear senior management meetings. I also attend some of the monthly Brunswick Project Review meetings. Harris executive review meetings are held three or four times a year and I try to attend each of those. Finally, I hold a weekly staff meeting for managers located in the corporate office. The Manager of the Corporate QA Department routinely attends these meetings. Project Managers attend those meetings on the third Monday of each month.

Beyond formal meetings, I have numerous informal communications with the Project Managers and the other group managers. They can, and do, call me throughout the work day, and at my home if necessary, to discuss Project activities. Finally, I have frequent communications with NRC staff management and representatives of INPO. These discussions provide me with valuable insight into our own operations.

Q11. Dr. Elleman, please discuss the organizational structure of the Corporate Nuclear Safety & Research (CNS&R) Department.

A11. The Corporate Nuclear Safety and Research (CNS&R) Department is composed of the Corporate Nuclear Safety Section (CNS), the Research Section, and the Corporate Health Physics Section. CNS includes the Nuclear Safety Review Unit (NSR) located at the central office and an On-site Nuclear Safety Unit (ONS) at each of the three nuclear projects. This organization is shown in Utley et al. Attachment 3. CNS includes 41 employees who work in Raleigh in NSR or at one of our plant sites in ONS. CNS employs experienced engineers who evaluate challenges to safety systems, review and analyze operations personnel actions

following plant scrams, conduct field surveillances of plant operations, review operating experience at other nuclear plants for the purpose of developing recommendations for our own activities, initiate special investigations or evaluations of events having possible safety significance at our nuclear plants, conduct independent reviews of plant documents, perform plant system assessments, perform thermal hydraulic analyses of plant transients of interests, and review selected plant procedures and modifications.

The NSR Unit is responsible for the independent review program as well as for providing general evaluation of safety related systems. The NSR independent review activity encompasses review of the following items: (1) procedure and plant design changes meeting 10 C.F.R. § 50.59 review criteria; (2) licensing actions; (3) tests or experiments not described in the facility's FSAR; (4) plant operational occurrences (LERs); (5) NRC notices of violations; (6) Technical Specification changes; (7) Plant Nuclear Safety Committee (PNSC) meeting minutes; and (8) any other item relative to safe operations deemed appropriate for review.

Another major responsibility of the NSR Unit is the evaluation of plant safety-related systems to assess whether they perform safely in accordance with design criteria. This activity is carried out by gathering data generated by tests, modifications, and repairs of the system; conducting interviews with operators; and reviewing performance summaries. The NSR Unit issues reports providing nuclear operations personnel with an outline of the evaluation, conclusions, and any appropriate recommendations and/or concerns.

The NSR Unit also monitors unresolved safety issues and is developing capabilities in the area of transient analysis. The main thrust of these programs is to enable NSR to function as the primary technical contact on key generic issues affecting CP&L nuclear plant operations and to gain the ability in-house to thoroughly evaluate and resolve issues insofar as practicable.

We have eleven employees in ONS at Brunswick, seven at Robinson, and six at Harris. The individuals in these Units fulfill the function of an Independent Safety Engineering Group, as defined by the NRC in NUREG 0737 and in NUREG 0800, the Standard Review Plan, Rev. 2, July 1981. These Units have a relatively high degree of flexibility in carrying out their tasks, which include administering an operating experience feedback program, reviewing selected procedures and modifications, evaluating transients and safety system challenges, directly observing plant activities, and conducting special reviews.

When CNS engineers discern problems, generally they are resolved through direct communication with appropriate members of the plant staff. If such efforts are not successful and it is determined that further action is required to enhance plant safety, a formal concern or recommendation is issued. Formal correspondence describing the concern or recommendation is initiated and sent to the appropriate department manager in the nuclear operations organization for resolution. Target dates for resolution and final corrective action are established consistent with the safety implications of the problem. If the problem is of immediate safety concern, the concern is orally communicated to the Plant General Manager and respective department manager for prompt resolution.

The Research Section monitors, evaluates, and conducts research and development projects related to the electric utility industry. The Section follows and provides support to research projects conducted by the North Carolina Alternative Energy Research Corporation and area universities. The Section also conducts selected research projects which can be more effectively carried out in-house.

The Corporate Health Physics Section staff reviews the health physics practices at our plants; conducts assessments of our health physics programs;

assesses the current status of health physics technology to make sure that we are using current methods; and reviews what other utilities are doing in this area. In general, their function is to make sure that we comply with regulatory requirements in the health physics area, and that we use proper health physics practices.

The individuals in these sections report through their respective managers to me, and I, in turn, report directly to Mr. Utley. I keep Mr. Utley aware of significant events. In the event a section experiences difficulties in resolving a problem, the matter can be brought to Mr. Utley for his personal consideration.

Q12. Dr. Elleman, please describe some of the other specific mechanisms that have been established within CP&L to implement CP&L's commitment to nuclear safety.

A12. Safe operation of our nuclear facilities is the primary responsibility of the plant operations staff. Several review and oversight organizations have been established to ensure that this responsibility is met. The Plant Nuclear Safety Committee (PNSC) at each of our operating nuclear plants consists of the Plant General Manager and those subordinate managers whose job requirements relate to safe operation. The PNSC reviews plant events and operational incidents of apparent safety significance for the purpose of ensuring that plant actions are appropriate. PNSC actions and reviews are documented in minutes which are distributed to key personnel having responsibility for nuclear safety. For Robinson, for example, the PNSC minutes are distributed to the Manager of the CNS Section and to Mr. Beatty, the Manager of the Robinson Nuclear Project Department.

In addition, a Corporate Nuclear Safety Review Board meets quarterly to review nuclear safety issues of potential importance to CP&L. I serve as chairman of this Board which also includes an outside consultant and representatives from Plant Operations, Engineering, CQA, Licensing, and CNS&R. Corporate Nuclear

Safety Review Board decisions are implemented through actions of the organizations represented on the Board.

To ensure that the safety-related programs of CP&L are functioning properly, senior management employs a number of review and monitoring techniques. Senior management officers hold monthly review meetings concerning each nuclear plant during which they receive an update on plant problems, accomplishments, and priorities. Reports from CQA and CNS&R are transmitted regularly to senior management and discussed personally with appropriate individuals. As the Vice President for Corporate Nuclear Safety and Research, I meet periodically with various individuals at our nuclear plants to ascertain their perception of plant operations and problems. I also meet on a regular basis with Mr. Smith and the Board of Directors to review nuclear safety issues. A variety of reports that identify trends important to safety are regularly prepared by plant staff and are given broad distribution to appropriate management personnel. These reports include data on CP&L licensee event reports (LERs), personnel contaminations, radiation exposures, NRC notices of violations, waste volumes generated, measures of plant chemistry, and other measures of the safety performances at our plants. This body of information helps management to evaluate trends in radiation control and safety performance.

Q13. Dr. Elleman, please describe CP&L's ALARA Program.

A13. The Corporate Health Physics Policy requires that the Company develop, implement, and maintain sound health physics programs at CP&L facilities where radiation-producing equipment and/or radioactive materials are used or stored. These programs are structured to ensure that the exposure to radiation of CP&L personnel, contractor personnel and the general public will be maintained at levels which are as low as reasonably achievable (ALARA).

Some of the major facets of the programs are: (1) the establishment of ALARA goals, plans, procedures, and methods; (2) the review of the design of facilities and equipment that can affect potential radiation exposures; (3) the identification of locations, operations, and conditions that have the potential for causing significant exposures; (4) the coordination of preplanning and post-operational debriefings for jobs having potentially high exposures; (5) the review of associated procedures; (6) the periodic review of results of ALARA programs; (7) the development of recommendations for improvements; (8) the conduct of training in ALARA concepts; and (9) the collection, maintenance, and analysis of personnel exposure data.

The Corporate Health Physics Section staff reviews the ALARA programs annually to assure they are effective in minimizing exposure to radiation, and makes recommendations for program improvements. The Section also provides assistance in development of ALARA training programs, counseling on good health physics practices, and other support services.

Q14. Mr. Banks, please describe the organization and responsibilities of CP&L's Corporate Quality Assurance Department.

A14. CP&L's Corporate Quality Assurance (CQA) Department is responsible for providing quality assurance (QA) and quality control (QC) for CP&L's nuclear activities, including engineering, construction, and operations. The objective of the CQA Department is to provide an effective QA/QC program that will ensure safe, efficient, and reliable power plant engineering, construction and operation and that will meet all regulatory requirements. In addition, the CQA Department is responsible for QA audit functions. This Department was formed in early 1981 to provide more efficient and effective QA/QC within CP&L by consolidating the QA/QC functions that had previously been performed by three separate

departments in the Company. The Department is currently staffed with 283 people, including 116 professional employees. Each nuclear plant has an on-site QA/QC staff to direct QA/QC activities for engineering, construction and operations.

As manager of the CQA Department, I report directly to Mr. Utley. This organizational relationship provides the independence necessary to guarantee that quality assurance decisions are made free of cost and schedule considerations. We have established three primary sections within my Department: the QA/QC Brunswick and Robinson Plants Section, the QA/QC Harris Plant Section and the Quality Assurance Services Section. A chart of the Department is shown on Utley et al. Attachment 4.

Q15. Mr. Banks, please describe the organization and responsibilities of the QA/QC Brunswick and Robinson Plants Section and how they relate to the programs for quality assurance and quality control at the Harris plant.

A15. The QA/QC Brunswick and Robinson Flants Section is responsible for assuring proper application of quality standards, practices, and procedures associated with the operation, maintenance, or modifications at CP&L's presently operating nuclear plants. We anticipate that the operations QA/QC program which we implement at the Harris plant will be substantially similar to the programs in place at Brunswick and Robinson.

The Manager of this Section is located in the corporate office with a Director of QA/QC located at each plant. The Director - QA/QC Brunswick Plant and the Director - QA/QC Robinson Plant and their respective staffs are responsible for conducting on-site QA/QC activities in accordance with the Corporate QA Program and QA/QC procedures.

The QA/QC program for our operating plants covers many facets of the plant's operations, maintenance, environmental and radiation control activities, as well as modification activities. Among the activities that are performed under these QA/QC programs are the following: (a) reporting quality-related problems for correction; (b) stopping maintenance or modification work that does not meet requirements; (c) reviewing plant modification and maintenance documents, the Plant Operating Manual, and other plant procedures and instructions to assure that quality requirements are adequately prescribed; (d) ensuring holdpoints have been inserted in work control documents; (e) conducting inspections and witness points for maintenance and modification of the plant; (f) verifying acceptability of items and conditions by means of inspections, examinations, or tests; (g) providing guidance or check lists for accumulation of documentary evidence of quality and other QA records for retention; (h) coordinating and conducting surveillance of on-going plant activities, reporting results to the appropriate plant supervision and following up to assure that timely corrective action is taken, when appropriate; (i) providing procedures or instructions necessary for the accomplishment of QA/QC activities; (j) reviewing purchase requisitions and ensuring that QA/QC requirements are specified, except when reviewed by Quality Assurance Services; (k) reviewing contracts to ensure inclusion of necessary QA/QC requirements; (l) reviewing site-generated design specifications and procurement documents to ensure inclusion of QA/QC requirements; and (m) reviewing the Corporate QA program and proposing revisions, as appropriate.

Q16. Mr. Banks, describe your Quality Assurance Services Section's organization and its responsibility.

A16. The Quality Assurance Services Section, which is located in the corporate general office, provides QA engineering support activities for the Department,

conducts vendor surveillances and qualification activities, conducts an independent corporate audit program, and implements a training program designed to qualify QA/QC personnel for maximum interchangeability among various QA/QC activities. This Section assures proper application of quality standards, practices, and procedures during engineering, construction, operation and modification of CP&L's nuclear plants.

Q17. Mr. Banks, since the formation of your Department in early 1981, what further actions has CP&L taken to enhance the overall effectiveness of its QA program?

A17. One important action was the retention of Management Analysis Company (MAC) in August 1982, to help identify opportunities for improvement. MAC made 167 recommendations to us, 164 of which we adopted. We have completed implementation of all but 6 of those recommendations. In addition, we have made other changes based upon our own analysis of our needs. By doing so we have substantially improved our QA/QC program.

For example, QA engineers have been assigned to the three plant sites to provide additional technical expertise and to enhance communications with the plant staffs. Various functions such as vendor surveillance, QA auditing, QA training, administrative support, and QA engineering have been consolidated under the QA Services Section. The on-site QA surveillance program has been strengthened by placing more emphasis on plant operations, health physics, security, and special evaluations requested by the Project Managers and Plant General Managers. At both of the operating plants, on-site QA/QC monitors and verifies changes to the Technical Specifications. A videotape on quality performance for use in the General Employee Training Program has been developed and is in use. The QA Services Section has had additional engineers and specialists assigned to its organization, thereby increasing the Section's capability to support the nuclear plants.

Q18. Mr. Banks, please briefly summarize CP&L management's position on quality assurance.

A18. I, as Manager - Corporate Quality Assurance Department, am responsible for the implementation of the approved Corporate QA Program. In that respect, QA and QC activities are independent from scheduling and production commitments. The managers of QA/QC activities under me have sufficient authority and organizational freedom to identify quality problems; to initiate, recommend, or provide solutions; and to verify implementation of solutions.

I report directly to Mr. Utley. I also have the authority to communicate directly with other corporate management up to and including the Chairman/President/Chief Executive Officer and, if appropriate, with the Board of Directors to resolve any quality assurance concerns which cannot be resolved satisfactorily at a lower management level. CP&L management has made substantial efforts to instill in our personnel a commitment to the philosophy of Quality Assurance. We want all individuals on the CP&L team, whether they be craftsmen, operators, engineers, managers or QA personnel, to understand that quality assurance is each individual's responsibility and that the Quality Assurance program is designed to help every individual achieve his maximum level of effectiveness and thereby meet our goals of safety, reliability and economy.

Q19. Mr. Utley, in your opinion, are the organizations and programs at CP&L, including those which have been described thus far, adequate to translate CP&L's corporate commitment to nuclear safety into safe operations at its nuclear plants?

A19. Yes. Moreover, the recent management reorganizations that placed senior managers at our nuclear plants will make it easier to integrate assistance of all site support groups when problems arise and to improve further the flow of information between management and operations personnel.

Q20. How does CP&L respond to violations proposed by the NRC?

A20. The regulations of the NRC provide the framework within which a response to proposed violation should be structured. The licensee is required to acknowledge or deny the violation as proposed, explain the cause of a violation which is acknowledged, identify the actions that it intends to take to correct the violation and to prevent the recurrence of similar violations, and specify a date by which compliance will be achieved. The approach used by CP&L in developing our substantive responses is to seek the root cause of a violation and take corrective actions that will address the perceived cause, rather than merely the symptoms, of the violation. Where, for example, a violation relates to a deficiency in management control or training, the remedial actions proposed are likely to involve commitments to strengthen the relevant aspect of the management organization or training program. We use this approach in responding to violations of all severity levels.

In 1982, the NRC imposed a substantial civil penalty against CP&L for what it perceived as programmatic weaknesses that led to violations of Technical Specifications for missed surveillance testing at the Brunswick plant. Mr. Howe and Mr. Dietz will testify in detail about those events and the corrective actions we took in response. I would like to mention it here, however, because I believe it illustrates well the process I have just described.

The NRC and CP&L viewed the specific errors that occurred as evidence of programmatic deficiencies in the management controls over the Brunswick plant. CP&L, therefore, undertook a comprehensive program of actions designed to correct the immediate deficiencies, i.e., the symptoms, and to ensure that the programmatic weaknesses, i.e., the root causes of the violations, would be remedied.

The proposed CP&L actions for long-range improvement were ultimately formalized in the Brunswick Improvement Program, a copy of which was submitted to the NRC. On December 22, 1982 the NRC's Office of Inspection and Enforcement issued Confirmatory Order EA-82-106 requiring CP&L to implement the Brunswick Improvement Program. CP&L responded to the Confirmatory Order on January 10, 1983 by providing the NRC with a schedule for implementation of each task identified in the Brunswick Improvement Program and by submitting copies of the outside consultants' studies performed in connection with this improvement effort. A formal corporate program has since been in place to ensure satisfactory completion and implementation of the items identified in the Brunswick Improvement Program.

An investigation was also carried out at Robinson and at Harris to ensure that similar problems did not exist at those facilities. We did not find any such problems. Nevertheless, we instituted a formal program of stricter management controls at Robinson similar to the Brunswick Improvement Program which we call the Robinson Long-Term Improvement Program. We submitted this Program, including a schedule for its implementation, to the NRC in March 1983. We have already implemented many of its provisions and are completing the rest. A similar program was also developed for Harris.

The Brunswick Improvement Program incorporates the recommendations of INPO resulting from a "special assistance visit" to CP&L in September 1982 during which activities at the Brunswick site and the corporate office were evaluated.

Also as part of the Brunswick Improvement Program, two studies were conducted by an independent consultant, Management Analysis Company (MAC). One study reviewed outside demands on the plant staff and made recommendations for reducing such demands in order to allow more attention by plant staff to

operations and maintenance. This study was conducted during the fall of 1982. CP&L has either implemented or committed to implement many of MACs recommendations. With respect to the remainder of the recommendations, we were satisfied, upon review of them, that their objectives were being met by programs already in place.

MAC also conducted a detailed review of the Corporate QA program as Mr. Banks mentioned. This review encompassed the overall corporate program, as well implementation of that program at all three nuclear plant sites.

We made several organizational changes for the Brunswick plant to provide more direct management control over activities there and to enhance communications between management and the plant staff. The most significant of these was the assignment of Mr. Howe to the site as Project Manager in September 1982. The comprehensive actions undertaken in the Brunswick, Robinson, and Harris Improvement Programs reflect the corporate philosophy of taking all reasonable action to ensure that the root cause of a problem is identified and corrected. The progress of the comprehensive self-appraisal, the implementation of improvements and the results of organizational changes have been monitored very closely by CP&L senior management.

Q21. Mr. Utley, what evidence is there that CP&L's methods of conducting its nuclear operations, including the remedial measures and organizational changes CP&L has instituted, are having positive results?

A21. I am confident that our nuclear operations will be even stronger as a result of the recent comprehensive improvement programs and organizational restructuring we have instituted. Many of these improvements are intangibles that cannot easily be measured quantitatively. An example is the significant improvement in the morale of personnel at the Brunswick plant which I can see. Moreover, as I stated,

one of the objectives of the improvement programs at our plants and our on-going consolidation of responsibility for nuclear operations is to achieve, in the long term, significant improvements in the management and conduct of our nuclear program. For this reason, it is reasonable to expect, and I do expect, that many positive results of our efforts of the past two years will become evident throughout the years to come. Nevertheless, there are, today, tangible examples which taken together demonstrate the effectiveness of the manner in which we are conducting our nuclear program.

At the Brunswick plant, for example, there have been improvements in our operations which are indicative of the success of the various improvement programs that have been instituted there. The number of NRC notices of violation issued with respect to Brunswick has decreased. There also has been an overall reduction in the severity level of the violations that have occurred.

We have made a concerted effort to improve our program of training of our reactor operators at Brunswick. The success of these efforts is illustrated by the improved examination results achieved at Brunswick since January 1983.

We can also point to specific plant programs to illustrate improvements that have occurred at the plants. The NRC's Systematic Assessment of Licensee Performance (SALP) report for the period of January 1, 1982 through January 31, 1983, while critical of some aspects of CP&L's nuclear operations, did raise the rating of the health physics programs at both Robinson and Brunswick. The NRC evaluation of Robinson noted that "programmatic efforts to improve in the radiation protection area were evident in health physics controls." The report also noted an increased emphasis on preplanning training and the use of mock-ups. The Brunswick evaluation cited a successful ALARA program and identified improvements in the radiation protection program.

There is additional evidence of our management's commitment to building a quality program in health physics. The radiation exposure levels at Brunswick for 1983 were held about 30 percent below projected exposures and a similar reduction would have been obtained at Robinson if continued deterioration of the steam generators and resulting inspections had not produced increases in radiation exposure. Tighter controls have produced a significant reduction in the number of personnel contamination events at both plants, and sorting of radioactive materials has produced a significant reduction in solid waste volume at Brunswick. Once the waste volumes associated with the steam generator replacement have been accounted for, we are projecting radioactive waste volume reductions at that plant as well. A strong program of decontamination at both operating plants has reduced the size of radioactive contamination areas at both operating plants.

There have been positive results of the reorganization at our Robinson and Harris sites. Our steam generator replacement project at Robinson is progressing well due in part to the planning program and due in part to the assignment of an individual with total site responsibility to the project. At our Harris site, the transition from the construction program into a startup program has been quite smooth because an individual is now on site with total responsibility for directing the efforts of construction, startup and plant operations.

An audit of CP&L's management capabilities commissioned by the North Carolina Utilities Commission was published in December 1982 by the management consulting firm of Cresap, McCormick and Paget, Inc. (Cresap). While Cresap made several recommendations to CP&L for improvement of its operations at the corporate office and at the nuclear plants, it also found that in many respects CP&L is one of the best managed companies that the firm had audited in the past several years.

My visits to the plants and my participation in CP&L activities related to our nuclear operations have convinced me that we are continually improving our capabilities to run our nuclear plants. We have experienced low personnel turnover rates for the last several years at Robinson and the turnover rate has substantially improved at Brunswick in the last two years. This has significantly increased our base of experienced personnel. Personnel additions from outside CP&L also have been helpful in increasing our experience base. Morale is high at our nuclear plants. We are increasingly relying on new technologies to monitor operations, planned outages, and commitments.

Q22. Mr. Utley, what in your opinion is the single most important improvement in the way CP&L manages its nuclear program?

A22. In my opinion the most significant improvement is the consolidation of all activities at each nuclear plant under the direction of a senior manager who is located at the plant site. By organizing in this way, we have a single individual who is accountable for virtually everything that happens at his plant. This provides for better discipline over all aspects of plant operations and facilitates better establishment of priorities. Perhaps the greatest benefit of the structure is that because our project managers are at their sites, they can see for themselves, first hand, what the conditions are when a problem arises; and they can react immediately. Moreover, because they have the authority to act for the Company, they can make prompt decisions on behalf of the Company. This greatly increases the time within which corrective actions can be decided upon and implemented.

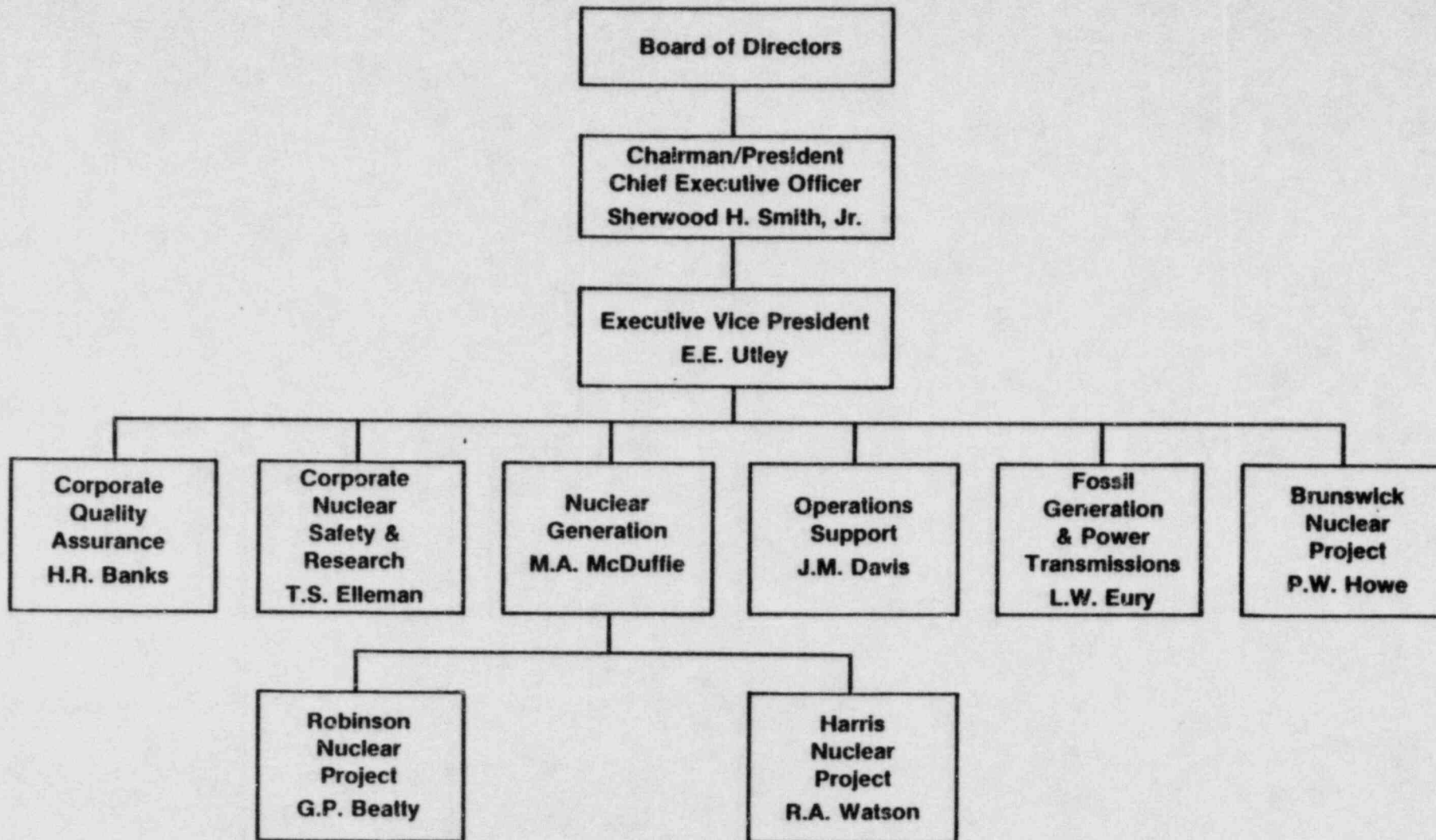
Q23. Mr. Utley, in your judgment, is CP&L's nuclear organization structured properly to manage effectively the operations of CP&L's nuclear facilities in a safe and prudent manner?

A23. Given the managerial requirements associated with nuclear power today, I believe that CP&L has the right organization, both in terms of staffing and in terms of structure, to manage CP&L's nuclear facilities in a safe and prudent manner. We will continually evaluate our organization and refine the structure further when it is appropriate to do so. Should circumstances in the industry, or for CP&L specifically, change significantly, we will certainly examine the question of whether our organization should change. If, for example, the amount of modifications necessary to be made substantially decreases, the current structure may no longer be necessary. The key is to be flexible and to remain capable of adapting to changing circumstances.

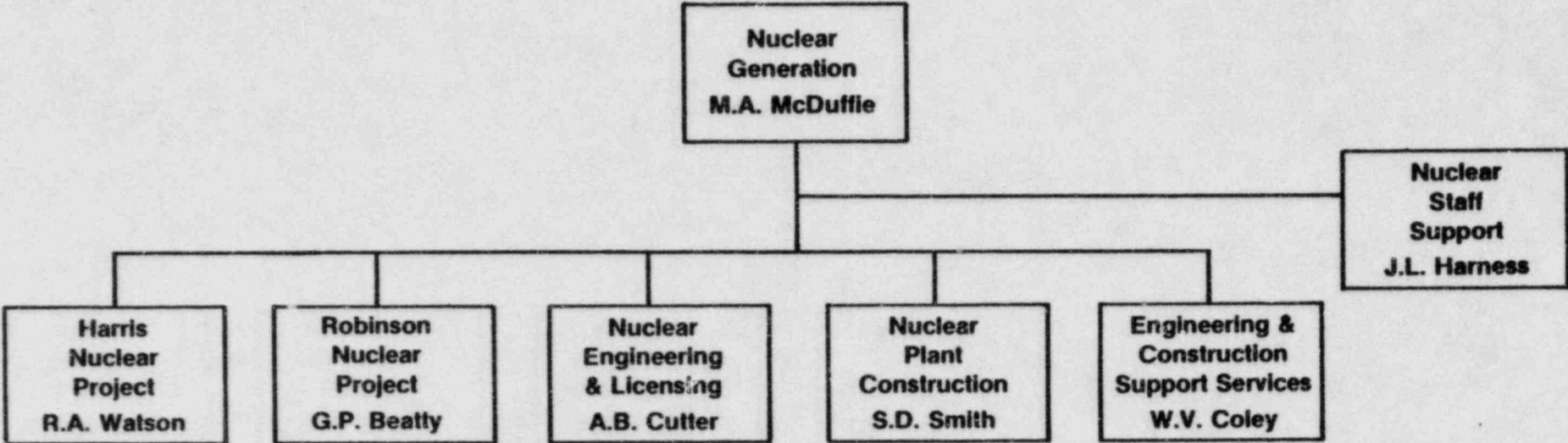
Q24. Does this conclude your testimony?

A24. Yes, it does.

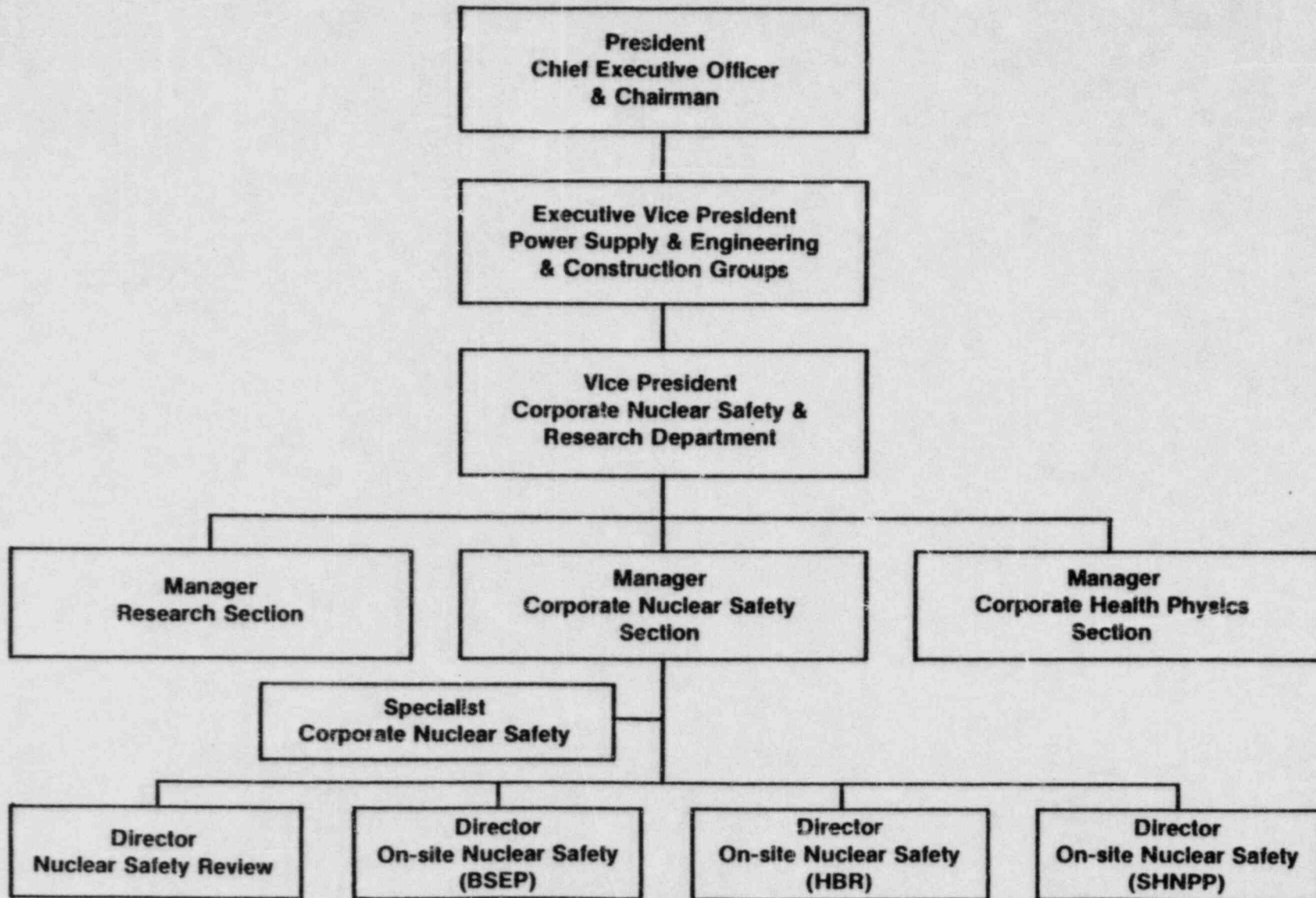
CORPORATE NUCLEAR ORGANIZATION



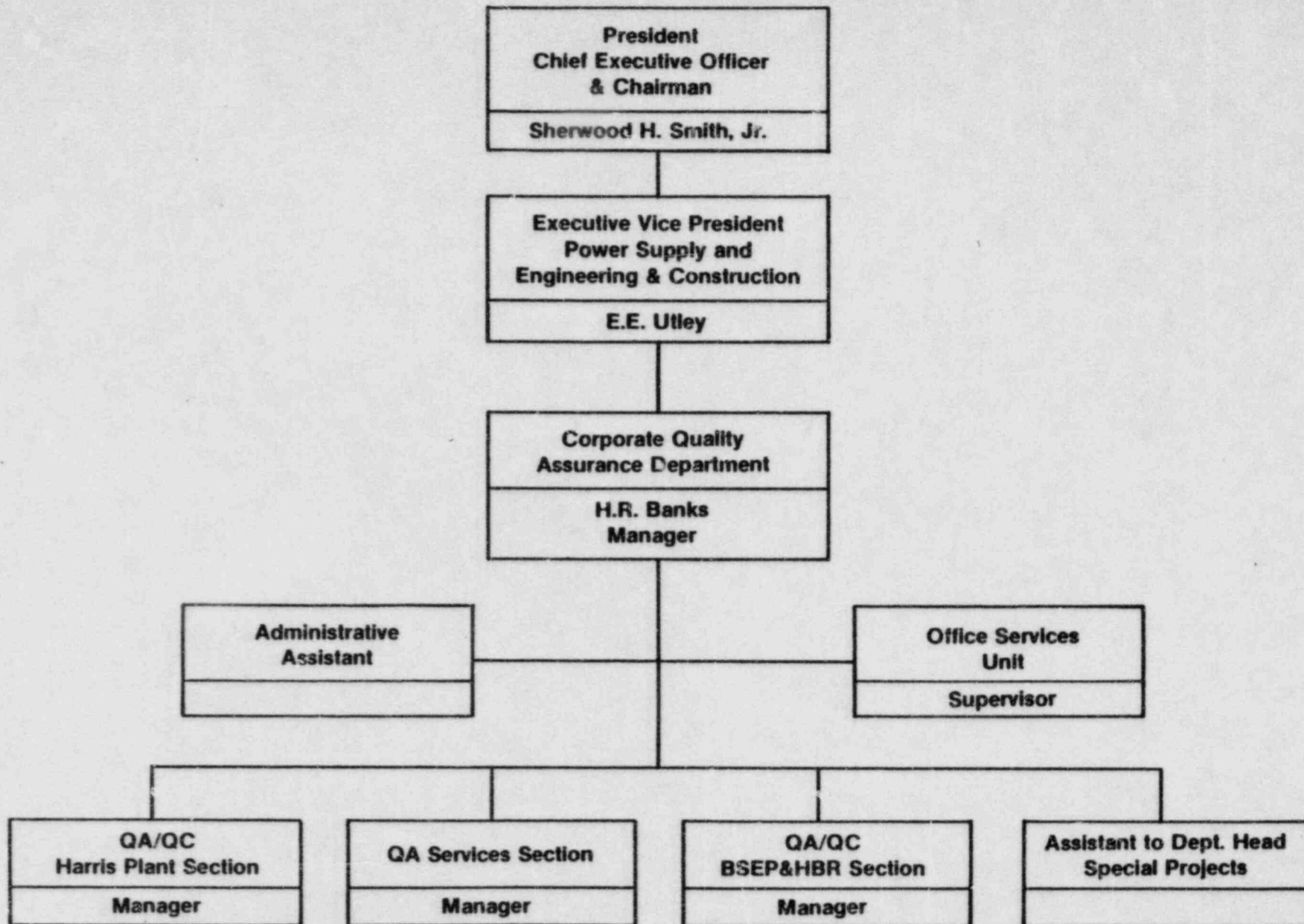
NUCLEAR GENERATION GROUP



CORPORATE NUCLEAR SAFETY & RESEARCH DEPARTMENT ORGANIZATION



CORPORATE QUALITY ASSURANCE DEPARTMENT ORGANIZATION



WRB/eb5

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BY MRS. FLYNN:

Q Mr. Utley, will you please give a brief summary of the testimony which the members of this panel will give today?

A (Witness Utley) Yes, I will.

In our testimony we review CP&L experience in construction and operation of nuclear generating facilities. We then describe the manner in which CP&L has organized the various departments, personnel response before the conduct of the company's nuclear-related activities, the functions that those departments and personnel perform.

Based upon our experience and in response to increased regulatory requirements and complexities facing the nuclear industry, CP&L has periodically restructured its organization. The latest reorganization which occurred in 1982 and 1983 were major steps in the consolidation of all nuclear responsibilities within a single corporate group.

Perhaps the most significant aspect of these reorganizations was the assignment of a department manager to each of our nuclear plant sites to direct all onsite activities.

CP&L has experienced problems in the operation of the Brunswick plant. We discuss measures CP&L has taken to correct those problems and to improve performance at the Brunswick plant.

Finally, we describe CP&L's philosophy and commitment with respect to ensuring that our nuclear plants

WRB/eb6

1 are operated in a manner that will protect the public health
2 and safety.

3 Certain questions contained in the testimony are
4 directed toward a particular member of this panel. Answers to
5 such questions are sponsored by the individual to whom the
6 questions are to be addressed. In all other aspects, this
7 panel's testimony is sponsored by all four members as we have
8 stated.

9 Q Thank you.

10 MRS. FLYNN: The panel is available for
11 cross-examination.

12 JUDGE KELLEY: Very well.

13 Mr. Runkle.

14 MR. RUNKLE: I had a matter to clear up first.

15 Four of the questions were not sponsored by an
16 individual, Questions 3, 4, 8 and 20, and I wasn't quite sure
17 what that did in this proceeding.

18 JUDGE KELLEY: I believe I just heard that in those
19 instances all four members subscribe to that particular
20 answer, and I gather that means that each of the four have
21 personal knowledge insofar as facts are recited in that
22 answer.

23 MR. RUNKLE: And if I asked the panel whether they
24 have more experience or knowledge--

25 JUDGE KELLEY: You can ask them that or you can

WRB/eb7

1 just pick one, or you can simply ask the panel and see what
2 happens, if one of them can respond.

3 CROSS-EXAMINATION

4 BY MR. RUNKLE:

5 Q Mr. Utley, are you familiar with the exact wording
6 in the Joint Contention 1?

7 A (Witness Utley) It is my understanding that
8 the contention challenges Carolina Power and Light Company in
9 regard to their capability to operate and construct the
10 Harris plant.

11 Q Mr. Utley, I am going to hand you what I have
12 marked as JI Cross Exhibit 1 which presents the actual
13 wording of this Joint Contention 1.

14 Probably for all purposes it would be easier if
15 we all had a copy in front of us.

16 (Distributing documents.)

17 (Whereupon, Joint Contention 1
18 was marked as JI Cross Exhibit 1
19 for identification.)

20 BY MR. RUNKLE:

21 Q Sir, have you read over JI Cross Exhibit 1?

22 A (Witness Utley) Yes, I have.

23 Q To your knowledge, is that the wording of the
24 admitted contention in this hearing?

25 A As I said, it is my understanding that the

WRB/eb8 1 contention is that Carolina Power and Light Company has been
2 challenged in regard to the ability to operate and manage
3 and construct the facility.

4 Q But what I'm asking is is this Cross Exhibit 1, is
5 this the actual wording for the contention, just to put it
6 in the record?

7 MRS. FLYNN: Excuse me, Mr. Chairman. Applicants
8 will stipulate that this is the wording of the contention.

9 JUDGE KELLEY: Okay.

10 This is JI Cross 1. Is that correct?

11 MR. RUNKLE: Yes.

12 JUDGE KELLEY: And it is stipulated in, so it's in.

13 (Whereupon, JI Cross Exhibit 1,
14 having been previously
15 marked for identification, was
16 received in evidence.)

17 BY MR. RUNKLE:

18 Q Mr. Utley, are you familiar with FERC Form Number 1?
19 Let me show you a copy of this and see if you are familiar with
20 this document.

21 (Handing document to the witness.)

22 A (Witness Utley) I cannot say that I am familiar
23 with the contents of that document.

24 Q Are you aware that the Applicant filed such a form
25 with the Federal Energy Regulatory Commission?

WRB/eb9

1 MR. BARTH: A point of order, your Honor. May we
2 see the exhibit which has been shown without being marked for
3 identification?

4 JUDGE KELLEY: Let me get clear. Is it an exhibit
5 or simply a document with respect to which you wish to ask some
6 questions?

7 MR. RUNKLE: There is one page in here I would like
8 to submit as an exhibit. I was just setting the basis of
9 putting another exhibit in.

10 JUDGE KELLEY: If you propose to offer a page of
11 that as an exhibit-- Was that prefiled?

12 MR. RUNKLE: No, it wasn't.

13 JUDGE KELLEY: Is there any reason why not?

14 MR. RUNKLE: It was to be used on cross-examination.
15 It is not part of our case in chief.

16 JUDGE KELLEY: Well, let me get clear on the
17 distinction.

18 I will tell you the distinction that I draw. You
19 offer the document as an exhibit. In that case its number
20 then comes in the record for that purpose.

21 You might by contrast simply have a document in
22 some form or other, say you want to refresh the witness'
23 recollection. "Do you remember seeing this?" He says Yes.
24 You may or may not want to put it in, but you want to ask him
25 a question about it. That is not in evidence; it only is used

WRB/eb10

1 as a vehicle for testing the witness' knowledge or memory on
2 some particular thing or other.

3 As to the former category, exhibits that are coming
4 into the case as evidence, they were to be filed on the 9th of
5 August as the Board understands the situation.

6 Is the distinction I am making one with which
7 counsel are familiar?

8 Do you follow me, Mr. Runkle?

9 MR. RUNKLE: That certainly was not our
10 understanding.

11 MRS. FLYNN: Your Honor, it was the procedure that
12 was followed in the environmental hearing, and it was clearly
13 stated that any exhibit to be admitted into evidence would
14 be filed by August 9th and that there could be documents used
15 for the purpose of cross-examination but those would not be
16 put into evidence.

17 I did not understand that this was being put into
18 evidence when Mr. Runkle distributed it. I thought it was
19 for purposes of cross-examination.

20 JUDGE KELLEY: In that particular case I think it
21 is harmless. It's a copy of the contention. Who cares?
22 But beyond that--

23 MRS. FLYNN: The point is--

24 JUDGE KELLEY: All right. The distinction as I
25 stated it, is that consistent with your understanding?

WRB:eb11

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MRS. FLYNN: Yes.

JUDGE KELLEY: Mr. Barth?

MR. BARTH: Your Honor, I would amend Mrs. Flynn's statement by going one step further. The documents which were to be used for cross-examination were to be identified prior to the 9th of August, those which were to be used on cross-examination.

JUDGE KELLEY: Could you reference us to the record in that regard?

MR. BARTH: Transcript page 1939, your Honor.

JUDGE KELLEY: Do you have a copy?

MR. BARTH: I don't have a copy with me.

I would like to point out that Mr. Eddleman has done so in providing the Staff with the list of the exhibits which he intends to introduce on cross on 41.

We have identified all the exhibits in our testimony and we have also provided other exhibits which were mentioned in testimony submitted by the Intervenors.

JUDGE KELLEY: I would venture an observation to the witnesses and others, that you are the first people up, as you know, and it is not uncommon for lawyers to discuss procedural fine points a lot of the time the first day or two of the hearing. And so we are off to the races on one of those right now. We are going to have to straighten this out.

WRB/eb12

1 Does anybody have the transcript of-- What is the
2 page?

3 MR. BARTH: Page 1939, your Honor.

4 MR. EDDLEMAN: What I would like to clarify while
5 we're looking for the transcript is the stuff that I
6 prefiled on 41 is not all the stuff that may be used for
7 cross-examination. It is the stuff that I wanted to put in
8 the record.

9 MR. BARTH: Sir, we had a very extensive
10 discussion twice in the Post Office in which Dr. Carpenter
11 injected himself, and in the latter part said affirmatively
12 that he also felt that surprise was not--

13 JUDGE KELLEY: I have a transcript of Monday,
14 June 18th. Unfortunately your citation is to June 19th.

15 Does anybody have that?

16 MRS. FLYNN: We can get that and bring it back to
17 the hearing after lunch.

18 JUDGE KELLEY: Can you?

19 MRS. FLYNN: Yes.

20 Can I suggest that we defer ruling on this issue
21 until we have seen a transcript? This was not Applicants'
22 understanding of the rules, so we will be anxious to see the
23 transcript.

24 JUDGE KELLEY: I frankly don't have a clear
25 recollection about a ruling that one had to produce copies

WRB/eb13

1 of material one only intended to use on cross. Now if so,
2 if that's what was said, that is what was said. I just don't
3 remember. But if we can see the transcript--

4 MR. BARTH: It was to put the parties on notice
5 as to what would be used in cross-examination.

6 JUDGE KELLEY: Either way. But I gather you are
7 fairly confident of your citation. If we get that transcript
8 we can--

9 MR. BARTH: The more you look at me, the more I am
10 shakey about my confidence of that, your Honor, but we'll see.

11 JUDGE KELLEY: All right.

12 For the moment, going back to Mr. Runkle, I think
13 it makes sense. If the Applicants at least can find that
14 transcript over lunch and we take a look at it, perhaps we can
15 get a firmer handle on this point. If it turns out that
16 there is no unequivocal rule that governs this, then we will
17 just have to make one.

18 But if we have one already made and it is in the
19 transcript and it makes sense, then that's what we will do.

20 MRS. FLYNN: One thing. I think there's a
21 distinction-- I think it was quite unambiguous that documents
22 that were to be exhibits and entered into evidence had to be
23 submitted by August 9th. The only ambiguity I think is
24 whether or not documents that were to be used for
25 cross-examination would have to be identified.

WRB/eb14

1 JUDGE KELLEY: It is my recollection, but as long
2 as we are going to find this piece of paper....

3 Mr. Runkle, you have this FERC form. Is that
4 correct? That is how we got into all this.

5 Insofar as you intend to offer it as an exhibit,
6 you can make the offer but we are going to defer the ruling
7 until after lunch, until we look at the transcript.

8 But with that in mind, why don't you go ahead?

9 MR. BARTH: I would still like to see the
10 document on which he's questioning the witness.

11 JUDGE KELLEY: That's a good point.

12 (Document handed to Counsel.)

13 JUDGE KELLEY: I would like to make a general
14 observation in this regard.

15 Now again distinguishing for present purposes
16 between exhibits going into evidence and documents going to
17 be used for the basis of some kind of questioning, we know
18 the rule on exhibits going into evidence that is X number
19 of copies. We have already established that all of those
20 are already filed.

21 As to documents being used as a basis for cross,
22 we can have, it seems to me, a sort of practical rule of
23 thumb. It is important that counsel at least, and the Board,
24 have a opportunity to follow along on a piece of paper that
25 is being used as a basis for cross. We don't have to have

WRB /eb15 1 10 or 12 copies.

2 I should think that if you had -- to take your
3 case, Mr. Runkle, if you had a case where you had a copy for
4 the Staff, a copy for the Applicants, and one or two for us
5 that you could distribute at the time you wanted to use it,
6 in advance preferably, that would be-- I would like to hear
7 some comment on that, whether that would be satisfactory.
8 But I think we are going to have to be able to follow along.

9 MR. RUNKLE: That certainly was the procedure we
10 expected to use. If something was going to be used on
11 cross-examination, after the basis of whatever the document
12 is, copies would be provided to the panel and all parties
13 to be used as an exhibit in the record.

14 JUDGE KELLEY: But now you are sort of merging
15 these two categories that I'm at pains to keep separate.

16 I take it we have no problem as to exhibits
B5 17 going into evidence. You have to supply the number of copies
18 called for by the rules, except our Board has said on
19 voluminous things, you know, the ones that are that thick
20 (indicating), you can cut back. That's one kind.

21 On these cross-examination documents, that is a
22 different category in our minds. Have you got copies of this
23 FERC form this morning?

24 MR. RUNKLE: Just the one page.

25 JUDGE KELLEY: You have copies of the one page

WRB/eb16 1 you want to put in?

2 MR. RUNKLE: Yes.

3 JUDGE KELLEY: Okay. Why don't you distribute
4 that then?

5 MR. RUNKLE: All right.

End C4

6 (Documents distributed.)

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1 JUDGE KELLEY: Again, just to prevent the walking
2 around the room, which we shouldn't have to do too much of,
3 but at the beginning at the day you have 8 or 10 documents
4 you're going to use, go ahead and pass the copies out.

5 Go ahead, Mr. Runkle.

6 BY MR. RUNKLE:

7 Q Mr. Utley, are you aware that Carolina Power &
8 Light and you will each submit FERC form number 1 to the
9 Federal Energy Regulatory Commission?

10 A Yes, I am.

11 MR. BARTH: A point of order your Honor, could we
12 have the title to this document so that when we read the record
13 we'll know what we're talking about?

14 JUDGE KELLEY: The title of the document is FERC
15 Form Number 1, Annual Report of Electric Utilities, Licensees,
16 and Others, Class A and Class B and the latter is in
17 parentheses, exhibited by Carolina Light and Power Company,
18 December 31, 1983.

19 I would like to approach Mr. Utley again.

20 BY MR. RUNKLE:

21 Q Can you please compare these two documents?

22 A (Witness Utley) There appears to be some material
23 cut off at the bottom. But the page number is the same.

24 Q What page number is that?

25 A The page in your book is page 104.

pp2

1 MR. RUNKLE: I would like to identify the copy of
2 page 104 of FERC Form Number 1 as JI cross Exhibit 2.

3 (Whereupon, Exhibit 2 was marked.)

4 MR. BARTH: Your Honor, is that for an identification,
5 is that for evidence?

6 JUDGE KELLEY: I think you should make that
7 distinction. I gather now it's offered for identification,
8 is that correct, as JI 2?

9 MR. RUNKLE: Yes, sir.

10 JUDGE KELLEY: So we'll never look that way
11 Are you moving it this time for it's admission?

12 MR. RUNKLE: If we can defer that until after
13 lunch, I would just as soon make that motion when you're
14 ready to answer it.

15 JUDGE KELLEY: All right. The understanding
16 will be that we'll look at the transcript. Hopefully, it
17 will be answered after lunch.

18 BY MR. RUNKLE:

19 Q Mr. Utley, would you read the first sentence of
20 the JI cross Exhibit 2 under the word officers?

21 A (Witness Utley) Starting with the word report?

22 Q Yes, sir.

23 A "Report below name, title and salary for each
24 executive officer whose salary is \$50,000 or more"-- it's hard
25 to read this, the copy is not that good. "Includes it's

pp3

1 president, secretary, treasurer, and vice-president in charge
2 of a principal business unit, a division or a function such
3 as sales, administration or finance and any other person who
4 performs similar policy-making functions."

5 Q Thank you, sir.

6 So this would be a list of those CP&L officers who make
7 more than \$50,000 a year, is it not?

8 A That is correct.

9 Q Sir, are you on this list?

10 A Yes, I am.

11 Q Are any of the other members of the panel on this
12 list?

13 A Yes, they are.

14 Q Which ones of the panel are on this list?

15 A Mr. M. A. McDuffie, Dr. Thomas Elleman,

16 Q And Mr. Banks is not on this list?

17 A I don't see his name right offhand.

18 Q Thank you, sir.

19 JUDGE KELLEY: May I just ask if the list
20 continues on the next page. It sort of looks like it does.

21 MR. RUNKLE: It says it does but there's just
22 an asterisk about a change in someone's titles.

23 JUDGE KELLEY: No more names on the next page?

24 MR. RUNKLE: No, there are no more names on the
25 next page.

pp4

1 JUDGE KELLEY: All right.

2 BY MR. RUNKLE:

3 Q Mr. Utley, you state in your testimony that you
4 attended Louisburg College and North Carolina State University,
5 do you not?

6 A (Witness Utley) I did.

7 Q What degrees do you have from those colleges and
8 -universities?

9 A I do not have a degree from either of those
10 colleges.

11 Q And what has been the major area of your experience--
12 what would you consider your expertise?

13 A Well, I would say that I have demonstrated
14 capability to fill every level management position in this
15 company as concurred in by my superiors.

16 Q And what are some of those management levels that
17 you have held?

18 A That goes back to the foreman level, to the
19 executive vice-president, which I am now.

20 Q And in '72 you were elected company vice-president.
21 What did that position entail?

22 A That position was responsible for the operation and
23 maintenance of all generating facilities for Carolina Power &
24 Light Company.

25 Q And what was Mr. Sherwood Smith's position in 1972?

pp5

1 A I do not recall the exact title of his position
2 in 1972. As I recall, he went on the Board at about '71.
3 It was -- I don't recall the exact time.

4 Q And which Board was that he went on?

5 A Carolina Power & Light.

6 Q On the Board of Directors?

7 A Yes.

8 Q Sir, in 1977 you were named Senior Vice-President
9 in charge of the power supply group, were you not?

10 A Yes.

11 Q What did that position entail?

12 A That position covered the responsibility for all
13 generation. In addition, the procurement of fuel as well as
14 system operations and transmission line maintenance.

15 Q And in 1979, you were named Executive Vice-President
16 in charge of power supply, were you not?

17 A That's correct.

18 Q What did that position entail?

19 A That position covered the responsibility for all
20 power supply which covered the responsibility for all generating
21 facilities, transmission, substation maintenance, procurement
22 of fuel, and system operations.

23 Q And then in the --

24 A -- as well as customer service. I had customer
25 service for a short period of time.

pp6

1 Q And then in mid-1980 -- was reorganized
2 to the power supply and engineering construction?

3 A That's correct.

4 Q What is your current position with the company?

5 A I am Executive Vice-President Power Supply,
6 Engineering Construction.

7 Q On attachment 1 to your testimony -- will you
8 turn to that, please?

9 On the third box down, it says Executive Vice-President,
10 E. E. Utley, is that you, sir?

11 A That is my position, yes.

12 Q And who do you report to?

13 A I report to Mr. Sherwood Smith, Chairman, President,
14 and Chief Executive Officer.

15 Q Are those three different positions, or is that
16 one position?

17 A That's one position.

18 Q So he would be chairman of the CP&L Board of
19 Directors?

20 A Yes, sir.

21 Q And President of the Company?

22 A Yes, sir.

23 Q And also the Chief Executive Officer of the Company?

24 A Yes, sir.

25 Q When did Mr. Smith become Chairman of the Company?

pp7

1 A About 1979. That is subject to check.

2 Q And when did he become President of the Company?

3 A I do not recall the specific date.

4 Q When did he become Chief Executive Officer of the
5 Company?

6 A To my recollection, it was about 1979.

7 Q And you report direct to him?

8 A Yes, I do.

9 Q How often do you report to him?

10 A It varies day to day, week to week. Depending on
11 conditions and situations that prevail in our day to day
12 activities. Very seldom, if ever, a week passes that I do
13 not have a meeting with Mr. Smith. It's not unusual to have
14 meetings with Mr. Smith more than once a day. He is
15 available at any time that I need to interface and
16 communicate with him either in the office or outside the
17 office to stay in touch so that I know how to get in touch
18 with him at approximately all times.

19 Q And during these meetings with him, what kind of
20 thing would you discuss?

21 A We discussed numerous things, principally having
22 to do with my area of responsibility and things that he needs
23 to be made aware of in order to fulfill his responsibilities.

24 Q And what are his responsibilities?

25 A He has the responsibility for the total operation

pp8

1 of Carolina Power & Light Company.

2 Q Does he have the final word in these areas?

3 A He is the final word in regard to the operation of
4 Carolina Power & Light Company.

5 Q So he would make the final decision, in any number
6 of issues?

7 A That's correct. He is the ultimate in the
8 decision-making process, yes.

9 Q Sir, underneath you are several other boxes, are
10 there not?

11 A There are positions shown that report directly
12 to me.

13 Q Are there any others that report directly to you
14 that are not listed there?

15 A There is a secretary and a staff position that is
16 not shown on this particular chart.

17 Q That would be your personal assistant and secretary?

18 A That's correct.

19 Q Starting from the left, the first box is corporate
20 quality assurance?

21 A Yes.

22 Q Who is in charge of that group?

23 A Mr. H. R. Banks, who is part of this panel.

24 Q And what areas of questions does he address in
25 questions to the panel?

pp9

1 A He could address any areas pertaining to the
2 of quality assurance organization. In addition,
3 he has no prerogative to answer any question that is asked
4 of the panel if he feels confident he could expand the
5 answer that will serve our needs for being here.

6 Q For the record, what is corporate quality
7 assurance?

8 A Corporate quality assurance covers the quality
9 assurance organization responsible for assuring quality
10 in compliance with regulations in all of our nuclear facilities
11 both operations and construction.

12 Q Is this solely a management responsibility?

13 A Yes. This is principally a management
14 responsibility.

15 Q Trying to better define the scope of corporate
16 quality assurance, how would a line worker become involved
17 in the quality assurance program?

18 A I'm not sure I understand the question.

19 Q If a line worker found a problem in the
20 construction or operation of one of the nuclear plants,
21 how does the system progress when that problem is brought
22 to your attention?

23 A Are you talking about a problem that is found
24 by a person not in the quality assurance organization?

25 Q Yes.

pp10

1 A Well, there's a number of ways that are available
2 to him to communicate the problem. One is through the line
3 management organization to superiors in the organization.
4 The other is you have the freedom to call anyone in the
5 quality assurance organization or the corporate nuclear
6 safety organization. Or we have other programs in place
7 if he prefers to remain anonymous at our Shearon Harris
8 site. He can communicate by that means.

9 Q What is that means if a line worker would want to --

10 A Well, it's a program we have set up that provides
11 a means for anyone that has a concern or a problem
12 particularly in regard to the safe construction of that
13 plant and submit their allegations and be identified. If
14 he prefers not to be identified he can submit this into a
15 particular location that people are made aware of and he
16 will be -- that information will be kept confidential as
17 far as his identity.

18 Q That would be outside the normal operation of
19 quality assurance, would it not?

20 A I don't look at it as being outside the normal, no.

21 Q Is it not true that most quality assurance would
22 be inspectors and are members of the quality assurance group?

23 A That is only a part of the organization. There
24 are inspectors, there are quality control technicians, there
25 are engineers, there are people with all of the different

ppl1

End WRB#5

1 quality information required to have a competent quality
2 assurance program.

3 Q Can you give a rough estimate of how many staff
4 are in the quality assurance program?

5 MR. BANKS: There are 283 CP&L employees plus
6 contractors.

7 Q And is that just at the Harris site?

8 A That is in the corporate organization.

9 Q Can you break that down for us as to how many
10 would be in the Harris facility?

11 A If you give me a minute, I'll give you the
12 exact number.

13 The quality assurance, quality control Harris
14 plant section has 154 CP&L employees plus contractors.

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1 JUDGE KELLEY: Could you elaborate a little bit
2 plus contractors, what does it involve?

3 WITNESS BANKS: We do not have enough inspectors,
4 engineers or other type of support and we bring in contract
5 people working for us to support those organizations. At
6 the present time the Harris -- and this is a number two check,
7 but it's in the neighborhood of close to 200 inspectors and
8 engineers that I have in the QA organizations from the
9 contract sources.

10 JUDGE KELLEY: So these people might be short-
11 term?

12 WITNESS BANKS: Short-term. If we get into a
13 bit inspection program on pipe supports, I may bring in
14 20, 30 inspectors who are qualified and then stop in six
15 months and then go back to the contractors.

16 JUDGE KELLEY: And then on top of that isn't
17 a certain amount of QA work actually performed by contractors
18 and subcontractors, vendors, for example?

19 WITNESS BANKS: On the Harris site we have the
20 total QA -- there are some subcontractors that may be
21 allowed to come in and bring their own QC in but we do the
22 QA.

23 BY MR. RUNKLE:

24 Q And then how many would be at Brunswick?

25 A (Witness Banks) We have 68 CP&L employees at

WRB/agb2

1 the Brunswick project.

2 Q And how many, roughly, contractor inspectors?

3 A That varies down there, once again, depending on
4 what is going on. At the present time at Brunswick we have
5 26 contract people.

6 Q How many of the units at Brunswick are presently
7 in outage?

8 A One unit is in outage, one unit is operating.

9 Q And these numbers would vary on the contractors
10 depending on the outage or what was going on in the plant?

11 A That's correct.

12 Q And would you have more people during an outage
13 or less?

14 A You would have more people during an outage
15 because there is modification work taking place, additional
16 maintenance work that cannot be done while you're operating
17 so we bring in contract people.

18 Q And then how many would be at the Robinson plant?

19 A I'd like to go back and correct the number I
20 gave you for Brunswick. I gave you the Robinson and Brunswick
21 total together.

22 Q All right.

23 A The Brunswick CP&L is 43 and the Robinson is 23.

24 Q I think the number you gave before was 68.

25 A That's right. 43 and 23 is 68.

WRB/agb3

1 JUDGE KELLEY: Anyway it's close.

2 WITNESS BANKS: My paper says 68.

3 BY MR. RUNKLE:

4 Q So the right figures are 43 at Brunswick and
5 CP&L is --

6 A (Witness Banks) Going back and adding the numbers
7 myself there are 43 and 23.

8 Q Thank you.

9 And roughly how many contractor inspectors would
10 be at Robinson?

11 A At the present time there are 61.

12 Q Why is there seemingly that many more at Robinson?

13 A The type of modification work that is taking
14 place there now requires more quality assurance and quality
15 control work.

16 Q Is the Robinson reactor down right now?

17 A Yes, it is.

18 Q Mr. Utley, what is the difference between quality
19 assurance and quality control?

20 A (Witness Utley) Well my view on quality control
21 is it relates to quality assurance. Quality control of the
22 program is where they are actually controlling the activities
23 that are taking place whereby the assurance is an assurance
24 that the control and the inspection is all taking place in
25 the proper way.

WRB/agb4

1 Q So control would actually be more the procedures
2 done in the work or the installation or the operation of
3 the project and quality assurance would then be checking up
4 to make sure that work was done properly?

5 A Quality control is really the assurance actions
6 which provide a means to control and measure the characteristics
7 of an item, process or facility as established by requirements.

8 Q Mr. Banks, what is the difference between quality
9 control and quality assurance in your opinion?

10 A (Witness Banks) Quality control is the
11 inspection function. This is getting down to very simple
12 terms: quality assurance is assuring that the things that
13 were supposed to be done were done without doing a detailed
14 inspection. There is more to the definition.

15 Q I'll be getting to the total definition later on
16 but I have some questions specifically for you and I'm just
17 laying the groundwork here for that.

18 Mr. Utley, turning to the next box, it's labeled
19 Corporate Nuclear Safety and Research. Under that is
20 Dr. Elleman.

21 Is that also under your control?

22 A (Witness Utley) Yes, it is.

23 Q What, briefly for the record, is Corporate Nuclear
24 Safety and Research?

25 A Well speaking to the research aspects of the

WRB/agb5

1 question first, Dr. Elleman has now responsibility for the
2 research program in our company. This not only includes the
3 monitoring of the EPRI research program carried out by the
4 utility industry, he also has the responsibility for the
5 in-house research that is carried out, not only for the
6 areas of responsibility that fall under my direction but also
7 the areas that fall under other areas of the company.

8 The Corporate Nuclear Safety activities is a
9 responsibility that he carries out in regard to corporate
10 nuclear safety as well as on-site nuclear safety at each of
11 our facilities.

12 And in this responsibility he also has an overview
13 of all of the activities that are taking place in our nuclear
14 program to assure that things are being carried out and that
15 there are no unsafe activities taking place.

16 In addition, he is available for me to consult
17 with in regard to any questions that I might have in regard
18 to nuclear safety. And I would defer to Dr. Elleman to further
19 elaborate on that activity.

20 Q Mr. Utley, when you talk about the research aspects,
21 you have said that there was the EPRI utility industry research,
22 the in-house research and also other research.

23 A Other research that takes place in the company
24 that is not under my direct responsibilities.

25 For example, distribution line automation. We

WRB/agb6

1 have a program now that is being developed in regard to
2 automatic control of distribution systems, which is a research
3 project. And that is also covered under Dr. Elleman's overview.

4 A. (Witness Elleman) I would add to that that
5 support for organizations, like Alternative Energy Corporation,
6 is under our research budget; projects that are carried out
7 for universities. There are a variety of activities under
8 the research heading.

9 Q. Research would be more than just the nuclear
10 research, it would be all the areas of research?

11 A. That's right.

12 Q. Well Dr. Elleman, can you give us rough
13 breakdowns of how many personnel would be in the Corporate
14 Nuclear Safety and Research program?

15 A. In the entire department?

16 Q. Yes, that would be reporting to you one way or
17 the other.

18 A. There are about 55 people in the department.

19 Q. And how many of those would be involved with
20 corporate nuclear safety?

21 A. There are 39 people in corporate nuclear safety.
22 Those are professional people.

23 Q. And they would have support staff?

24 A. That's correct.

25 Q. And how many of those are available at the plant

WRB/agb7

1 for plant-specific nuclear safety?

2 A When you state "the plant," are you talking
3 about all three plants or just the Harris plant?

4 Q Well any one of the three.

5 A We do have units at each of the three plants.
6 At Brunswick there are 11 professionals, at Robinson we
7 have seven. The unit at Harris currently has six professionals.

8 A (Witness Utley) But that should not be
9 interpreted to mean that other members of the corporate
10 organization are not available and are utilized in regard
11 to programs at the plant.

12 For example, the pressurized thermal shock effort;
13 a part of that program is handled aside and apart from the
14 on-site nuclear safety organization.

15 Q Dr. Elleman, would these 11 at Brunswick and
16 seven at Robinson and six at Harris be part of that 39, or
17 in addition to the 39?

18 A (Witness Elleman) That's part of the 39.

19 Q And the remaining would be in the corporate
20 headquarters?

21 A The remaining between the 39 and the 55?

22 Yes, that's correct.

23 Q My question was the ones that were not at the
24 different plants: the 11, seven and six, the 13 and 24 and
25 the remaining 15 professionals in Corporate Nuclear Safety

WRB/agb8

1 would be at the corporate office?

2 A. That's correct.

3 Q. And the remaining 16 would be in the research?

4 A. I'm counting professionals. The remaining 16
5 would include people who are involved in research, involved
6 in the corporate health physics section and are supported
7 -- and also involved with our supporting activities: the
8 secretaries, office services and so on.

9 Q. What kind of service would the Corporate Nuclear
10 Safety -- what kind of tasks would they do on the
11 different reactors?

12 A. Well maybe it would be helpful if I give sort
13 of an overview of the Corporate Nuclear Safety function.

14 It is a section that does not have line
15 responsibilities. Its role is to evaluate activities that
16 are carried out at the plants, to review the action that we
17 take on the events such as those reported in license
18 event reports.

19 We fulfill the operation experience feedback
20 function of reviewing events that occur at other plants
21 and identifying the significance of those for reference to
22 our training section and to our operations personnel. We
23 get involved in an analytical effort of modeling transients
24 that occur at the plants in trying to understand them
25 analytically, the course of those events.

WR36/eb1
fls agb8

1 We get involved in a variety of review activities,
2 looking at modifications that are underway, looking at
3 procedures that have been provided to address the nuclear
4 safety aspects.

5 Now to get back to your original question as to
6 what the groups at the plants do, the plant groups are
7 involved in conducting field surveillances where they get out
8 and look for the conduct of activities. They are reviewing
9 procedures and modifications, changes that are taking place
10 at the plants. They are looking at experience at other
11 nuclear facilities that are particularly applicable to that
12 plant in trying to evaluate what the significance and
13 implications are to the plant at the site.

14 They are getting involved in a variety of related
15 activities that potentially carry safety-related questions.

16 Q When you talk about field surveillance which looks
17 at the conduct of activities going on, what is the difference
18 between that and quality assurance inspection or coming up
19 through the other line, just regular inspections that would
20 go on?

21 A Well, we work together with the QA organization
22 if there are activities that are jointly pursued in that
23 area. The personnel in my organization are basically
24 professionals. They usually have college degrees. They
25 usually have advanced degrees. They are looking for the kinds

WRB/eb2

1 of things that people with this background are particularly
2 suited for.

3 Some of the QA personnel, on the other hand, are
4 more involved with establishing that things are being done
5 in accordance with the way they are specified in the
6 procedures. So we have divisions that reflect the backgrounds
7 and charges of the individuals involved, the responsibilities
8 of the individuals involved.

9 A (Witness Utley) He also has in his organization
10 a number of senior reactor operator licensed people, which
11 in turns says that they have been qualified to operate
12 nuclear plants.

13 JUDGE KELLEY: Let me just inject, looking toward
14 the lunch break, -- it is about 12 after -- some time in the
15 next ten minutes or so, if you come to a logical breaking
16 point, could you let us know and then we'll break?

17 MR. RUNKLE: Sir, I'm prepared to continue this
18 same line of discussion for quite some time, so whatever is
19 convenient for you.

20 JUDGE KELLEY: Why don't you go on another ten
21 minutes or so? I can let you know in ten minutes.

22 MR. RUNKLE: Fine.

23 BY MR. RUNKLE:

24 Q Just to try to get a better understanding, in QA
25 would be an individual inspector that may have a background

WRB/eb3

1 in welding, for example, and would be considered a welding
2 expert, or someone with qualifications, someone who could
3 weld. Would that be true?

4 A (Witness Banks) Yes. The QA people that are
5 qualified to make a weld inspection would be the ones to look
6 at welding.

7 Q And somebody may be a QA person who might be
8 qualified in something else, and that would be his specialty
9 to look at?

10 A That's right.

11 Q And then in corporate nuclear safety, you may have,
12 on the other hand, a minerologist or a metallurgist to look
13 at all the different pressures that a pipe may go under. Is
14 that right?

15 A (Witness Elleman) An engineer that would be
16 considered professional in this regard, yes.

17 Q To look at the more broader generic type of
18 issues that might arise?

19 A Or occasionally focus on a specific issue.

20 Q And would that be something in specifically looking
21 at individual welds?

22 A We rarely if ever get into that kind of detail.

23 Q You feel that between-- I guess this is probably
24 a question for the whole panel.

25 Quality assurance and nuclear safety, do they work

WRB/eb4

1 well together?

End 6

2 A (Witness Utley) They complement each other, sure.

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AGB/agbl

1 Q And looking at the same thing from different
2 points of view, they may find out different problems in
3 different ways, would that be safe to say?

4 A (Witness Elleman) I think it would be, yes.

5 I think a clarification that might be helpful is
6 our activities focus mainly on operation-related questions.
7 We have less to do with the construction side of activities
8 and things.

9 A (Witness Utley) Also I think it would be safe
10 to say the corporate nuclear organization looks more at
11 the theoretical aspects of the systems and so forth from
12 the standpoint of safety versus the day-to-day
13 inspection of actual application of welds and whatever.

14 Q And both Mr. Banks and Mr. Elleman report
15 directly to you, Mr. Utley, do they not?

16 A Yes.

17 Q How often do they report to you?

18 A On occasions frequently, on other occasions not
19 as frequently. It depends on the day-to-day activities
20 and what is taking place. Issues that depend -- I would
21 say that there is frequent interfaces on day-to-day
22 activities as they take place. Some days we don't meet
23 personally, maybe a telephone conversation. It's what
24 you would expect in a management-subordinate situation
25 at this management level.

AGB/agb2 1 Q Do they have the same access to you that you
2 have to Mr. Smith?

3 A Oh I would say certainly my door is open at
4 all times for anybody that needs to see me in Carolina
5 Power and Light Company or for any other reason that
6 pertains to the business of Carolina Power and Light
7 Company.

8 Q And gentlemen, how often in a week's time would
9 the two of you talk together?

10 A (Witness Elleman) I would give an answer,
11 I think, similar to the one Mr. Utley gave, which
12 is that if there are events underway that require our
13 close correspondence or require our close review then we
14 can meet on a daily basis.

15 If this is not true, perhaps every three weeks
16 or so we would have reasons for getting together or for
17 discussing something.

18 Q And who would decide what events needed you to
19 work closely together and which events you didn't have
20 to work so closely together?

21 A (Witness Banks) Whoever had the event and
22 thought needed the support and help of the other one.

23 Q Would you bring that to Mr. Utley or would you
24 just work on that together?

25 A Some items that we can handle together we'll

1 work it out together; if we feel it's something he
2 needs to be made aware of to keep him current in what he
3 needs to know then we pass it on to him.

4 MR. RUNKLE: This is probably a good breaking
5 place.

6 JUDGE KELLEY: I've got about 20 after. Why don't
7 we make it just 1:30 even for presumption -- Counsel,
8 just a word:

9 The matter we were discussing about filing
10 exhibits in advance and dates and whatnot, I found one
11 citation -- it's not directly in point because it's prior
12 to the June hearing but at least it's a discussion, and
13 it's at page 1017 to 1023, May 2nd.

14 If anyone wants to borrow mine over lunch,
15 they can look at this.

16 Fine. We're adjourned until 1:30.

17 (Whereupon, at 12:20 p.m., the hearing in the
18 above-entitled matter was recessed, to reconvene at 1:20
19 p.m., this same day.)
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Follows: AGB

WRBpp 1

AFTERNOON SESSION

7A

(1:50 p.m.)

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3 JUDGE KELLEY: We had a procedural problem arise
4 before lunch which we decided to put over until after lunch
5 in the hope that we could find a definitive answer in earlier
6 transcripts. That hope has not materialized. So we are
7 going to spend a few minutes on it now.

8 The problem, I think, as you all will recall, is
9 that Mr. Runkle of the Intervenors has a set of exhibits
10 which he proposes to offer into evidence over the course of
11 the next several days and which were not filed at the time
12 the pre-hearing written testimony was filed. One cannot
13 unfortunately point to an unambiguous, say, order from the
14 Board would be the best thing, spelling out exactly what
15 should have been done here. So I think the Board and myself,
16 primarily are a contributor to this problem. But lacking an
17 order that we can point to we'll have to figure out what is
18 reasonable and fair to do from the present -- from where we
19 stand at present.

20 I do want to distinguish when we get -- and when we
21 get to Counsel in just a moment -- between exhibits offered
22 into evidence that's what we're talking about. And on the
23 other hand documents that Counsel may want to use as a
24 basis for cross examination in the course of this cross
25 examining the panel but which he does not wish to introduce

pp2

1 into evidence. This latter category really is not a
2 problem. Counsel should bring copies so we can distribute
3 that, either at the beginning of the day or at the latest.
4 before the particular question comes up. But that's not
5 what we're talking about. We're talking about documents
6 that are going to be numbered and put into evidence as
7 substantive evidence on the issue that's before us.

8 With that as backdrop, Mr. Runkle, maybe you
9 would like to begin.

10 MR. RUNKLE: Well, at this time I would like to
11 move that the two exhibits I identified this morning, JI
12 cross exhibit 1, which is the joint contention and also
13 JI cross exhibit 2, which is from FERC Form No. 1, page 104.
14 I would like to move them into evidence.

15 JUDGE KELLEY: My recollection is that they are
16 already in. I'm sure we stipulated in number 1.

17 It isn't our purpose right now to focus on what happens
18 when you get to number 3, that you haven't prefiled or that
19 you are going to be to introduce that, from your perspective.

20 MR. RUNKLE: I don't think it is the applicant's
21 understanding that JI cross exhibit 1 has been introduced into
22 evidence.

23 JUDGE KELLEY: It's my understanding because I
24 ordered it in.

25 MR. BARTH: I do not recall that, your Honor.

pp3

1 I think that -- I hope reading the record will support it.
2 Does anybody want to dispute whether we should let in the
3 copy of the contention to this before us right now?

4 MR. BARTH: The contention is already a matter
5 of record, your Honor. It would simply be repetitive and
6 duplicative.

7 JUDGE KELLEY: Do you want to object on that basis?

8 MR. BARTH: Yes. I think that the commission's
9 rules say that only evidence which is not written and
10 duplicated shall be, and it is not going to avail us to
11 submit more copies of contentions.

12 JUDGE KELLEY: It will avail us even less to
13 argue about such a trivial point. Does anybody else want
14 to object?

15 MR. BARTH: But it will set the precedent for
16 the rest of the hearing, your Honor, which is the only
17 reason to bring it up.

18 JUDGE KELLEY: Well, we will restrict it to this
19 peculiar setup.

20 Are there any other objections to our admitting
21 JI Number 1, a copy of the contention?

22 (No response.)

23 JUDGE KELLEY: It's admitted.

24 (JI Number 1 is received
25 into evidence.)

pp4

1 JUDGE KELLEY: It is not a precedent for these
2 other exhibits that you're going to have?

3 Number 2, the FERC form, one page thereof. I
4 thought that was in too. Any objection to admitting the
5 FERC form, people making more than \$50,000 a year?

6 MR. BARTH: The Staff would object. There has been
7 no foundation laid for this document. I do think this is a
8 matter of controlling. The document can only be admitted
9 if in some way it engenders or impeaches the testimony of
10 the gentlemen on the Board. It does not. It's further
11 information, that's true, but so is the telephone book
12 information, the local telephone book. This document which
13 is one page out of FERC, lists people who make more than
14 \$50,000 a year. This in no way impeaches the testimony of
15 the four-panel witnesses from Carolina Power & Light.

16 I understand the power company feels it creates
17 problems. But this would be a problem of my own witnesses.
18 And the only way that the document on cross examination
19 can properly be admitted is if it has authenticity and
20 we admit the authenticity of the FERC document, and if the
21 document impeaches the testimony of the people on the stand.
22 If it confirms their testimony, then it is our case or the
23 Power Company's case and it has no relevance there. We will
24 make our own case and they will make their own case.
25 Mr. Eddleman does not introduce documents in support of the

pp5

1 Applicant's case or in support of the Power Company's case.
2 He introduces documents as part of his case. Whether on
3 direct, which we will argue about later, and on cross
4 examination. And the document which is a FERC document
5 does not support his case. And it does not impeach the
6 testimony of the four gentleman sitting on the Board which
7 are now before you. Therefore, we object, sir. It is not
8 relevent. There is no proper foundation, it is immaterial,
9 and it misconceives the nature of the cross examination
10 document. We will object to all documents introduced on
11 cross examination which do not impeach the testimony for
12 which they are used.

13 Thank you, your Honor.

14 JUDGE KELLEY: Putting to one side, my recollection
15 which may be wrong that I have already admitted this document.
16 Let me ask you, Mr. Runkle, to respond to the Staff's
17 objection.

18 MR. RUNKLE: His primary objection was that it
19 did not impeach our theory. You know, it's not a definitive
20 those people that make over \$50,000 working for a company
21 will not be willing to say too many things that would
22 hurt the company's case. It's certainly not for any definitive
23 purpose. It's just a list of the people, and I don't think it
24 goes to credibility.

25 JUDGE KELLEY: Any comment?

pp6

1 MRS. FLYNN: I believe that precisely speaking, that
2 that page was offered for identification only pending
3 people's review of the transcript.

4 JUDGE KELLEY: You may be right.

5 MRS. FLYNN: Applicant has no objection to its
6 being in as long as it's not a precedent.

7 JUDGE KELLEY: So you're not -- after all the
8 reason we're doing this is to figure out the significance
9 of our past filing date and what we're going to do about the
10 rest of the exhibits. Not so much this page from a FERC
11 document.

12 Mr. Barth, do you draw any significance that if
13 I heard this correctly, Mr. Banks, who is head of QA is the
14 only one not on the list?

15 MR. BARTH: No. I draw no significance from that
16 insofar as I wish to prove what Mr. Banks makes I can ask him
17 a direct question. The fact that it is not on the list,
18 all that means is that he's not a corporate officer.
19 That is a matter apart from his salary.

20 MR. FLYNN: For the Court's information, Mr. Banks
21 is not an officer of the Company, therefore his name does
22 not appear on that list.

23 JUDGE KELLEY: Oh, you mean there are non-officers
24 who make more than \$50,000 who are not on the list?

25 MRS. FLYNN: I believe the purpose of that form is

pp7

1 to list officers with a salary at a particular level.

2 JUDGE KELLEY: It says Executive Officers, that's
3 true, whatever that means.

4 (Board conferring.)

5 JUDGE KELLEY: The Board thinks that JI Exhibit
6 No. 2 is debatable as to its relevance. That kind of problem
7 we ran into in trying to judge whether something is cumulative
8 on the first day of this hearing, we frankly don't know yet.
9 It's one page, we're going to admit it based on the fact that
10 it is at least arguably relevant to what is before us and
11 it is sounder to admit it than to reject it under those
12 circumstances.

13 (JI Number 2 is received into
14 evidence.)

15 Now we thought we'd like to pass on to what we
16 thought we we're going to argue on in the first place, namely,
17 whether exhibits that have not been filed on the 9th of
18 August can now be brought in and introduced.

19 We do address that general issue, Mr. Runkle.

20 MR. RUNKLE: Well, we have a number of documents
21 that we will use in cross examining the witnesses.

22 JUDGE KELLEY: Now, bear in mind, don't worry
23 about those. We want to know about the ones you're going to
24 offer into evidence.

25 MR. RUNKLE: What we will establish the relevancy

pp8

1 of the document to the cross examination if one of the witness
2 has relied on it, whatever. The basis will be set up on the
3 cross examination. Besides which JI Exhibit No. 2, I don't
4 think any of the other ones should come as a surprise. They
5 were all documents either gotten through cross examination --
6 or through discovery or otherwise that would have been made
7 available through discovery, or were identified by either the
8 joint Intervenors on discovery or were otherwise. Some of
9 them come directly through the direct testimony of the
10 witnesses. And we will use them for the two purposes after
11 we are done using them for cross examination, refreshing
12 memory or whatever, we would like to introduce them into
13 evidence.

14 They will have been discussed and we think made relevent
15 through that.

16 JUDGE KELLEY: Did you consider finding copies
17 of these documents on the 9th of August?

18 MR. RUNKLE: Yes, I did. However we did not
19 have copies of all the documents at that time. But we had
20 a list at that time of the kinds of things that we -- it's
21 a pretty full list of what we would like to put in but our
22 reading of the transcript had no affirmative duty to do so at
23 that time.

24 JUDGE KELLEY: What portion of the transcript
25 do you refer to in supporting your conclusion that you had

1 no duty to do so.

2 It is true that when you were a participant in a
3 pre-hearing conference back in early May, May 2 to be exact,
4 in which we set forth the ground rules for filing testimony
5 and exhibits for the environmental hearing and that called
6 for simultaneous filing, we have not been able to find a
7 corresponding discussion following the environmental hearing
8 and before this one which says that in so many words. But
9 had you participated in the May hearing, and knowing that,
10 why didn't you file along with your testimony on the 9th.
11 Can you point to anything in the transcript which suggests
12 that you didn't have to file the exhibits on that date?

13 MR. EDDLEMAN: If I might point out, I went
14 through some of these transcripts myself for both my own
15 purposes and for the Joint Intervenors. And although the
16 question it seemed to raise, at what I understand from
17 reviewing it, was that I had to file anything that was part
18 of my direct case not an exhibit I would use on cross
19 examination and try to get into the record but an exhibit
20 I wanted in the record as part of the direct case had to
21 be filed on that day. But I couldn't even find that in the
22 transcript. And I just did it in order to be really sure
23 that those documents were there.

24 I also checked with some other people who looked
25 in the transcript and couldn't find anything -- in other words,

pp10

1 I can't point to a page in the transcript here that says,
2 you don't have to do this. What I can say is we looked
3 through the things where it was discussed and in none of
4 those things did it seem to say clearly, you have to do this
5 produce exhibits for cross examination that you want to get
6 into the record.

7 JUDGE KELLEY: Would you be prepared to provide
8 copies today or tomorrow of all these exhibits?

9 MR. RUNKLE: I cannot do that -- excuse me, please.
10 (Counsel conferring)

11 MR. RUNKLE: It will be an excessive burden to do
12 that today or tomorrow and even Friday.

13 JUDGE KELLEY: What about a list.

14 MR. RUNKLE: Even a listing I cannot get -- I have
15 a draft list. I haven't looked at it in a month, but I'm not
16 sure that that is what we want to use for all the witnesses.
17 We have not prepared our case for some of the later panels.
18 We're only about a panel ahead now and we would be hard pushed
19 to say what material we were going to introduce to the last
20 panel or the NRC Staff.

21 MR. EDDLEMAN: If it will help, I will go through
22 the thing and try to prepare a list for Mr. Runkle while he's
23 doing other things.

24 JUDGE KELLEY: I'm just trying to get a handle on
25 what is do-able.

ppl1

1 What is your estimate of the numbers -- not pages
2 but documents that you're talking about?

3 MR. RUNKLE: It would be hard for me to even put
4 it an estimate on that.

5 JUDGE KELLEY: On the order of 50, 100, 150?

6 MR. RUNKLE: There would be at least 50 documents,
7 I would imagine or parts of different documents.

8 JUDGE KELLEY: 50 to 100, is that the range?

9 MR. RUNKLE: 100 would be a little much.

10 JUDGE KELLEY: Okay. That's helpful.

11 Applicant or Staff next?

12 MR. BARTH: Mr. Chairman, it is our position that
13 an exhibit which Mr. Eddleman wishes to produce on cross
14 examination in order to support his case, falls within the
15 purview of the Board's order that direct testimony and
16 exhibits be filed by August 9.

17 JUDGE KELLEY: Which order is that?

18 MR. BARTH: I'll have to go back and find the
19 order, your Honor. We established the filing schedule at
20 the last pre-hearing conference

21 JUDGE KELLEY: I thought that's what we were
22 looking for over the lunch hour if we found such a clear order
23 we would not be debating this matter.

24 MR. BARTH: I'm trying to say, your Honor, that
25 these cross examination documents which support his direct

pp12

1 case are those kinds of exhibits and he has to file written
2 testimony and exhibits by August 9. That was not done. On
3 that basis --

4 JUDGE KELLEY: We have a clear order that says
5 written testimony.

6 MR. BARTH: And exhibits.

7 JUDGE KELLEY: Where is that.

8 MR. BARTH: I would have to go back and look at
9 the transcript, your Honor, to find where you ordered that
10 the testimony be filed by August 9. I do not have that
11 order with me.

12 JUDGE KELLEY: Isn't that what we were looking for
13 over the lunch hour, Mrs. Flynn?

14 MR. BARTH: I thought your Honor had read this
15 in the transcript you have before you, that the --

16 JUDGE KELLEY: That's May 2 and I agree with you.
17 I think May 2 is relevant. We said that on May 2 with
18 respect to the hearing in June. If that's why we did then
19 why didn't we do it now. The objection reference says we
20 did do it now or we intended to. But I still haven't got
21 a piece of paper that says that. That's what I am after.

22 Go ahead. Do you have anything else you want to
23 say?

24 MR. BARTH: Yes. We would object to the cross
25 examination exhibits which support his case on the basis of

ppl3

1 the fact that it should be part of the pre-filed direct case.
2 The second round creates no problem. They could
3 be introduced in our view if they are not part of this direct
4 case but in some way impeached and he has to lay the proper
5 foundation to impeach the testimony. That's a different
6 ball game, different set of rules. Depends on how the
7 document's used.

8 JUDGE KELLEY: I'm afraid I'm not sure -- you say
9 the second round. What round are you referring to?

10 MR. BARTH: If he cross examines Mr. Utley and
11 the document impeaches Mr. Utley's testimony in some way,
12 he has good foundation and grounds to introduce that in
13 evidence so that Mr. Utley's testimony is in some way incorrect.
14 That is making a case on cross examination. I have no
15 problem with the Intervenors doing so. We have a small
16 disagreement. It was my impression that we had requested or
17 it had been ordered that documents to be used on cross
18 examination be identified prior to hearing. I cited the
19 wrong page of the transcript, but I think these take two
20 different forms. A first form is a cross examine document
21 which does not impeach the testimony that supports
22 Mr. Eddleman in some way is an exhibit which should have
23 been filed with the pre-file testimony.

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24 The normal rule for putting the document into
25 evidence on cross examination is that you lay a proper

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foundation for impeaching people then we're dealing with a
different kind of rule and a different situation.

End WRB

C-7B

WRB 8/eb 1

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JUDGE KELLEY: Let me ask you, from your own perspective, and the Intervenors and the Applicants can answer:

Suppose the Intervenors have some documents they want to put into evidence and they haven't filed them yet but they're prepared to file them very soon, in the next few days. Suppose they come in with those documents on Friday or Monday and say "Here are 30 pieces of paper that I want to get in on the Staff's case."

I gather you would object to that. It's late. I know your argument: they are late. Right?

MR. BARTH: If the purpose is to impeach the Staff, yes, your Honor.

JUDGE KELLEY: I thought you were going to say if the purpose was even something independent of impeachment.

MR. BARTH: If it is to get a piece of evidence in which supports Mr. Eddleman's case we object on that basis because we felt it should have been prefiled by August 9th.

JUDGE KELLEY: All right. Stop right there.

Let's suppose that you have such a document, and here they come on September the 10th with such a document, and you object and you say it should have been here on August 9th. Suppose the Board says "Well, let's pass that for the moment."

WRB/eb2

1 How are you prejudiced by our letting it in now?
2 How does that hurt you?

3 MR. BARTH: Without knowing the document, your
4 Honor, I don't know what the prejudice would be. But I do
5 think that the agency's rules are structured to put on your
6 direct case in advance of the hearing, and--

7 JUDGE KELLEY: I'm asking you to put that to one
8 side just for a minute.

9 Suppose you've got time to read these papers and
10 say, "Yes, now I understand what they're going to say, and I
11 will structure my case accordingly," or "I will bring in a
12 witness I need and I'm all set and ready to go." And you
13 would have done exactly the same thing if you had been given
14 that piece of paper on the 9th of August; it makes no
15 difference at all.

16 Now then, how are you hurt by that?

17 MR. BARTH: Your Honor, this is no time to be
18 building the Staff's case from scratch. We are here for an
19 evidentiary hearing, not as a preliminary prehearing
20 conference in order for people to understand what the
21 groundrules are and to start building the case.

22 We have witnesses back in Washington. We have
23 witnesses in Atlanta. I don't know what the issues are. I
24 could not address those issues. That's why the Commission
25 has these rules, so we can prepare for an orderly hearing

WRB/eb3

1 rather than have a New England town meeting in which everybody
2 is sort of hashing things out.

3 JUDGE KELLEY: Well, you know you are not exactly
4 starting from scratch. You've been through discovery on
5 this thing for the past two years. You've got your
6 witnesses here ready to talk on the subject. So they come
7 along with a piece of paper you already knew about from
8 discovery six months ago, a year and a half ago. It is not
9 exactly a total surprise.

10 Why do you have to start all over? Can't you just
11 adjust to meet something?

12 MR. BARTH: My professional pride says I can
13 adjust, but I think that's a different element I have never
14 heard of, court documents where we have had no chance to
15 look at it, don't know the context, don't know what it is.
16 I think that is prejudice, your Honor. It disrupts an
17 orderly hearing.

18 If we're going to do that, why have rules? Why
19 not just let everybody bring in a bushel basket of documents
20 and we'll go at it?

21 JUDGE KELLEY: Well, you've made the point that
22 the rule or a Board order clearly said they had to have those
23 documents in by the 9th of August; no rule, no order, a
24 tradition if you want to put it that way. But the water
25 is a little murky.

WRB/eb4

1 MR. GARTH: I agree with what you're saying, your
2 Honor.

3 MRS. FLYNN: Your Honor, Applicants don't believe
4 that the water is murky at all. We thought that the ruling
5 that was handed down in the May 2nd prehearing conference was
6 quite unambiguous and applied not merely to the environmental
7 phase of this case but to every succeeding phase.

8 We had no idea that we would have to resurrect
9 this issue at each phase. We just didn't do it. Mr. Runkle
10 was at that hearing, the prehearing conference, and it was
11 very clearly articulated. We had relied on it. And
12 interestingly, Mr. Eddleman got the message because with
13 respect to the safety contentions on Eddleman 41 and 115, he
14 did prefile on August 9th the exhibits which he wants to be
15 admitted into evidence, so the message did get through, I
16 believe.

17 With respect to the issue of prejudice, I believe
18 that Applicants are serious prejudiced by a deviation from
19 that rule now. There are numerous documents that arguably
20 could be within the scope of Mr. Runkle's cross-examination.
21 We have no idea what they are.

22 We have been preparing since August 9th for
23 cross-examination. To now start on a new group of documents
24 whose reliability we have not had an opportunity to assess,
25 the contents of which these witnesses have not had a chance

WRB/eb5

1 to assess will not merely delay the hearing, which I think
2 is important, but I think it also severely limits our ability
3 properly to prepare for a very important issue.

4 I think that the rule that we believe controls here
5 doesn't inhibit cross-examination at all. These documents
6 are entirely available to Mr. Runkle to use for
7 cross-examination. The point is that they should not be
8 allowed into evidence when they were not presented at the
9 proper time, which we believe was August 9th, to give
10 Applicants and the Staff a chance to assess their reliability
11 and to allow the witnesses to adequately prepare.

12 Thank you.

13 JUDGE KELLEY: Mr. Eddleman, I know you filed
14 copies of a lot of documents with respect to 41 and 65, or
15 at least a list.

16 MR. EDDLEMAN: Right. I identified those that
17 were already in the hands of the other parties.

18 JUDGE KELLEY: How is it that when you are both
19 Joint Intervenors-- Well, those are your contentions, 41 and
20 65, but you are a Joint Intervenor, and how is it then that
21 as Joint Intervenors, these exhibits did not get filed, and
22 yet they did when you were pursuing your own contentions?

23 MR. EDDLEMAN: The distinction, as I said before,
24 as I understood it, and I may be wrong, but it is the best
25 understanding I had when I checked through the transcript,

WRB.eb 6

1 was that I was obliged to prefile exhibits which were part of
2 my direct case, and my understanding of it works this way,
3 and I may very well be wrong, that when you cross-examine
4 somebody, you use a document to cross-examine them with,
5 you can only cross-examine them about what they said.

6 Well, prior to the prefiling deadline, I don't
7 know what they are going to say. I have no idea of what the
8 Applicant is going to file. So if I want something in -- and
9 I guess the clearest application of this is what I filed
10 on Contention 116, fire protection. I didn't have any idea
11 whether they were going to address the particular issue.

12 I therefore got ahold of all these various
13 sections of the fire code which I filed on August 9th and put
14 them in. Then I said, Okay, now I've got that there.
15 Whether they say anything about it or not, I have put it in.

16 But I did not understand-- I was not concerned
17 about it. I did not know for sure. I checked through the
18 transcript. I talked to attorneys. It is my understanding
19 that you are obliged to prefile things that you are going to
20 use on cross-examination.

21 Now as to discovery, I think I did most of the
22 responding in discovery.

23 JUDGE KELLEY: Again now, what you just said-- I
24 am sorry to interrupt, but I would agree with you. As to a
25 piece of paper you are going to ask a question about and

WRB/eb7

1 stick it back in your pocket, you're not going to put it in
2 as an exhibit. That is used in cross-examination and used in
3 cross-examination only.

4 But if you then say "I hereby offer this thing,
5 this piece of paper as my Exhibit 38," that's something else
6 in my mind.

7 MR. EDDLEMAN: I understand that. Maybe I didn't
8 understand it as well before.

9 I guess when I read "Direct testimony and exhibits"
10 I interpret that to mean the exhibits that go with the direct
11 testimony. If you don't have any testimony that--

12 MRS. FLYNN: Mr. Eddleman doesn't have any
13 witnesses on Eddleman Contention 41 and 116. Therefore, he
14 could not have put those exhibits in as part of a direct case.
15 They are being put in for purposes of cross-examination. But
16 he would have gotten them in-- I'm sorry, he would have
17 gotten them in through cross-examination.

18 MR. EDDLEMAN: Well, I understood that it was part
19 of my direct case that I wanted to put in, regardless of what
20 the Applicant had to say about it, or what the Staff had to
21 say about it, that I had to prefile it. And I checked into
22 this other stuff.

23 Let me clear up one other thing that is perhaps
24 minor, but Mr. Barth keeps referring to if this impeaches
25 Eddleman's case, and I think he is referring to Joint

WRB/eb8

1 Intervenor's case. I just wanted to make it clear that on
2 this contention, it is the Joint Intervenors.

3 JUDGE KELLEY: Well, I think we have pretty well
4 aired what has happened and what is in the document.

5 I might just add that my own understanding has
6 been and remains that if you offer a document in evidence as
7 your exhibit that is in your direct case and it doesn't
8 matter whether it came in while you were crossing somebody or
9 whether it came in while you had one of your own witnesses on
10 the stand, it certainly isn't the other person's direct case.
11 They didn't want to put it in, so it has got to be somebody's.
12 Therefore, it's yours.

13 I have trouble with this distinction of whether
14 an exhibit used on cross impeaches or establishes some
15 independent point. So many times you really can't tell the
16 difference, and to me it seems easier to just call them all
17 part of the direct case.

18 Off the record.

19 (Discussion off the record.)

20 JUDGE KELLEY: Back on the record.

21 It seems to us that we really should think about
22 this more than we can do right now, sitting on this bench.
23 If you need an answer by tomorrow we'll give you one.

24 This afternoon I don't know how many more exhibits
25 you've got in mind, Mr. Runkle, but let me ask you this:

WRB/eb9

1 If you have got some coming up this afternoon--
2 Do you, or do you know?

3 MR. RUNKLE: Yes.

4 JUDGE KELLEY: Two? Three? Five? What are we
5 talking about?

6 MR. RUNKLE: One for sure. I have a stack that I
7 may get through today. If not, it will be in the morning
8 tomorrow.

9 JUDGE KELLEY: A stack? What does that involve?

10 MR. RUNKLE: Maybe seven or eight, maybe.

11 JUDGE KELLEY: Do you have copies?

12 MR. RUNKLE: Yes.

13 JUDGE KELLEY: Maybe at the next break we can go
14 ahead and get a little business done. At the next break
15 will you distribute copies of those documents, the one you
16 referred to plus the stack you referred to so at least it is
17 distributed? And then we are just going to have to take this
18 case by case until we can give you some kind of generic
19 ruling, probably tomorrow.

20 But this afternoon if you come to one we will
21 just have to take it on an individual basis. So with that we
22 can resume questioning for a bit.

23 MR. EDDLEMAN: Do you want to go over this list--

24 JUDGE KELLEY: There is one other point. That's
25 right. Mr. Eddleman has a point to raise. Maybe we will

WRB/eb10

1 take a short break. It has almost been an hour anyway, and
2 then we can resume questioning right after a short break.

3 Mr. Eddleman, why don't you go ahead? It is your
4 list.

5 MR. EDDLEMAN: The Board asked me to give a
6 priority listing of the eight people I subpoenaed on 65. Let
7 me say at the outset that it wasn't real easy to do it
8 because in selecting these people's names I've already tried
9 to throw out the ones that I didn't think were going to do
10 much. But the list is as follows:

11 Mr. Breedlove first, then Mountcastle, Strickland,
12 Troxell fourth, French fifth, Woltz, whose name I had
13 misread, sixth, Mr. Seeley seventh, Mr. Smith eighth. That
14 is priority-wise.

15 JUDGE KELLEY: Thank you very much. We asked for
16 that. Obviously if the Board takes a sort of a compromise
17 approach, then that is useful to know.

18 Why don't we take about a ten-minute break?

19 MR. BAXTER: Was there a similar one on 41?

20 MR. EDDLEMAN: I am supposed to do that on Monday.

21 JUDGE KELLEY: That's a somewhat longer list.

22 Okay, ten minutes.

23 (Recess.)

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End WRB. 8

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1 JUDGE KELLEY: We're back on the record.

2 Mr. Runkle and Mr. Eddleman have just distributed
3 at the Board's request a number of proposed exhibits. To be
4 precise, they are numbered JI Cross Exhibit Number 3 through
5 Exhibit Number 11 and, as I understand it, Mr. Runkle,
6 these may come up in due course in relationship to your
7 questioning but you don't know how many you're going to
8 get to this afternoon respectfully but these at least are
9 the next ones in order in your plan, is that right?

10 MR. RUNKLE: Yes, those will be the next ones
11 that we reach to.

12 JUDGE KELLEY: Okay.

13 Now we haven't, obviously, had a chance to read
14 these over, the counsel for the parties and the Board,
15 I think we would prefer to go ahead and get started in
16 the hope that among the several people at your respective
17 tables, you can take a look. Should we get to some
18 document and you simply haven't had time to read it yet,
19 then say so and we'll see where we go from there: we may
20 pass it, we may take some time to read it, whatever.

21 But we would like to get back underway at least
22 at this point. Is there is any objection to our resuming
23 our cross at this point?

24 MR. BARTH: Mr. Kelley, may I make a suggestion
25 on behalf of the Staff?

AGB/agb2

1 If you will grant the Staff a continuing
2 objection along the lines that we have laid, I will make
3 no objections if we continue and rest upon your rule
4 tomorrow that you people will decide overnight. That
5 will solve continued interruption by the Staff we feel
6 we need to preserve our rights.

7 JUDGE KELLEY: We indicated that we would try
8 to make a ruling tomorrow that would set a general rule
9 for this particular problem that we have now discussed at
10 some length. We may have particular points this afternoon
11 but we'd like to go ahead in the meantime.

12 But we understand your objection to the whole
13 procedures, Mr. Barth, and, should your point of view
14 prevail then we can just make appropriate rulings. But
15 we'd like to move on this afternoon.

16 MR. BARTH: Thank you, your Honor.

17 JUDGE KELLEY: Is that acceptable for the
18 Applicant?

19 MRS. FLYNN: Yes.

20 (Whereupon, the documents previously
21 referred to were marked as
22 JI Cross Exhibit Numbers 3 through
23 11 respective for identification.)

24 JUDGE KELLEY: Mr. R. kkle then can resume his
25 cross-examination of the panel.

agb/agb3

1 MR. RUNKLE: I would just like to state that
2 Exhibits Number 4 through 11 will be addressed to Mr. Banks
3 primarily but I do have several more questions for Mr. Utley
4 and also Mr. Elleman next.

5 So you will be asked the questions on those
6 other exhibits, so if you would like to be reading them.

7 JUDGE KELLEY: I think it's helpful to have that
8 kind of advance notice.

9 CROSS-EXAMINATION (Continued)

10 BY MR. RUNKLE:

11 Q Mr. Utley, we were talking about those departments
12 and people that reported directly to you and looking at
13 Attachment Number 1, were we not?

14 A (Witness Utley) Yes, sir.

15 Q The third department would be nuclear generation,
16 what does that entail?

17 A That reports to Mr. M.A. McDuffie in that he has
18 the responsibility for the operation of the Robinson and
19 Harris plants. He also has responsibility for the construction
20 on the Harris plant. He has some of the nuclear
21 engineering and licensing, the engineering construction
22 support staff as well as the nuclear support staff that
23 reports to him.

24 A (Witness McDuffie) Would it be helpful to you
25 if I covered some of the responsibilities of that area?

AGB/agb4

1 Q Yes, sir. I was just about to address that
2 question to you. If you would go down each of the different
3 departments that then go to you...

4 A As the chart indicates and you've already been
5 told, I report to Mr. Utley. And all of our nuclear
6 functions are under Mr. Utley.

7 Grouped in my area are two plants: the Robinson
8 Nuclear Plant, which is an operating plant under Mr. Badey,
9 and the Harris Nuclear Project which is the one we are
10 discussing that is under construction. That project is
11 headed up by Mr. Watson.

12 In addition to that, we have a Nuclear Engineering
13 and Licensing Department which is headed by Mr. Al Cutter.

14 Engineering for the Harris project is performed
15 by a section at the site reporting to Mr. Watson, but Mr.
16 Cutter is responsible for engineering related to modifications
17 at all of the plants.

18 He also heads up the function of licensing for
19 all three projects.

20 We have a nuclear plant construction department
21 which supports the project to the extent requested. The
22 actual construction area at this time is minimal because
23 each project has a manager who has that responsibility.

24 The construction department handles procurement
25 for the projects, it handles contracting and is available

agb/agb5 1 to work with the plants on scheduling or reviewing methods
2 to be used during construction.

3 We have an engineering and construction support
4 services section which is primarily a budgeting and
5 accounting function. They also have responsibility for
6 construction security -- not plant security in the operating
7 area but to protect equipment and materials during construction.

8 The nuclear staff support section is a section
9 in the general office that keeps up with special programs
10 and makes studies for the three plants. They have developed
11 guidelines and procedures; they keep up with activities at
12 some other plants; advise all three project managers on
13 trends in the industry and they handle some reporting
14 functions reviewed by management on a regular basis.

15 Q Now we have -- at the Harris Nuclear Project
16 reporting to Mr. Watson we do have engineering staff, do
17 we not?

18 A Yes, Mr. Watson is responsible for all activities
19 at the project and everything reports to him except quality
20 assurance and nuclear safety.

21 As I said earlier, procurement technically reports
22 to our construction department but Mr. Watson has day-to-day
23 direction over the buyers at the site.

24 So all functions at the site: engineering,
25 construction, start-up and later operations report to

AGB/agb5

1 to Mr. Watson

2 Q And he will be testifying on the third panel,
3 will he not?

4 A He's on one of the panels, I'm not sure which
5 one.

6 Q So the nuclear engineering and license department,
7 under Mr. Cutter, would be working on all the modifications
8 at both the Robinson and the Brunswick plants?

9 A Not all. The Brunswick plant has some
10 modifications which are handled by an engineering group at
11 the site in conjunction with some outside engineers.

12 Mr. Cutter's engineers also have modifications
13 at the site in addition to also using some outside
14 engineering talent.

15 The decision is made by Mr. Howe on what
16 engineering group will support the modification.

17 Q So at Brunswick Mr. Howe can request -- he has
18 his own engineering group, he can get contractors from
19 someplace else and he can also come to the nuclear engineering
20 and licensing department for additional help.

21 A He has the responsibility and the authority to
22 make the engineering decisions he deems in the best interest
23 of the project.

24 Q And he would consult with you on that also?

25 A He could talk to me, he could talk to Mr. Cutter.

agb/agb6 1 Typically the decision would be made between Mr. Howe and
2 Mr. Cutter.

3 Q And right now the nuclear plant construction
4 department is -- you said is fairly inactive because it is
5 not being used for the construction?

6 A It does not have responsibility for our major
7 construction at this point. The construction related to
8 modifications of the Brunswick site are controlled at the
9 site. The Harris project construction is controlled at the
10 site.

11 The construction department is involved in
12 those activities, particularly on the planning and the
13 contracting. And then we have some small projects related
14 to nuclear that is handled by the construction department;
15 most noticeable are some facilities being built outside the
16 plant area at Brunswick and also at our Harris E&E Center
17 near the Harris project.

18 Q What do you mean by the Harris E&E Center, what
19 is that?

20 A That's the Energy and Environmental Center where
21 we have some of our technical people engaged in environ-
22 mental studies; we have a metallurgical function at that
23 site and quite a few people engaged in training activities.

24 Q Where does the Security and Safeguards fit into
25 this structure?

AGB/agb7

1 A. The security for each plant reports through the
2 organization to the project manager at each of the three sites.
3 And then we have a corporate overview of security which
4 reports to Mr. Harness in the Nuclear Staff Support area.

5 Construction security reports to Mr. Cole in
6 Engineering Construction Support Services.

7 Q. I don't quite see the difference between
8 Nuclear Staff Support and Dr. Elleman's department. What are
9 the differences?

10 A. Well Nuclear Staff Support is developing guidelines
11 for the operation of our plants. They are working with the
12 plants in procedure development and as far as day-to-day
13 instructions on how we're going to do things. And they are
14 reviewing existing guidelines and standards to develop
15 consistency to the extent possible.

16 They handle most of the outside contacts
17 related to the projects with the exception of NRC. NRC
18 works with Licensing. Most of the other bodies that we deal
19 with would work through Staff Support.

20 And they also have program development in the
21 area of maintenance and development of other programs at the
22 site.

23 It's a relatively small group of people, many
24 of whom have had experience at the site.

25 Q. Can we just put some rough numbers on how many

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personnel report to each of these departments, starting with the Harris Nuclear Project?

A. The Harris Nuclear Project, reporting to Mr. Watson a couple of weeks ago, was 729 people. And that includes -- of course everything reports to him but the three biggest sections are construction, engineering and operations.

The Support Services Department has 23 --

Q And that would be the Nuclear Staff Support under Mr. Harness?

A. No, that would be under Mr. Cole, Engineering and Construction.

Q Sorry.

A. Nuclear Engineering and Licensing, 166. Nuclear Plant Construction, 56.

Mr. Harness' Staff Support, 23. And the Robinson Nuclear Project, 462.

A total under just less than 1500.

Q And that's from Utley et al., Attachment Number 2, is it not, that's the chart that has all these people that are under you?

A. Yes.

Q Mr. Utley, there are three other departments which report directly to you, are there not?

A. (Witness Utley) That is correct.

Q What does Operations Support do?

AGB/agb9 1 A The Operations Support group is comprised of
2 four departments: the fuel department, the materials management
3 department, the operations training and technical services
4 department and the environmental services section.

5 The fuel department determines the need for
6 nuclear fuel, procures the nuclear fuel and it is responsible
7 for all related activities such as forecasting fuel
8 requirements, insuring time of delivery of fuel to power
9 plants and performing nuclear fuel analyses.

10 The materials management department is
11 responsible for purchasing, control, warehousing,
12 distribution of salvage and disposal of company materials
13 requirements except for generation fuel, power plant
14 construction materials.

15 The operations training and technical services
16 department provides the centralized services to the power
17 supply, engineering and construction organizations for
18 radiation control, chemistry, operator and technician
19 training and emergency preparedness.

20 I might point out that the operations training
21 organization is centralized at the Energy and Environmental
22 Center, does have a very high-level, well-trained staff
23 there at that facility. It is a simulator for the Harris
24 plant and which is also staffed for the purpose of training
25

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1 and qualifying operators for the operation of that plant.

2 We also have a craft technical training program,
3 along with the necessary facilities to train people in regard
4 to the I&C technical work, the welding as well as maintenance
5 of valves and the many things that maintenance people do in
6 power plants.

7 These are formalized programs that carry the
8 people through not only the practical aspects of the work
9 but also the theory that is necessary in order to prepare
10 people and train them to be well-qualified technicians.

11 The environmental services section provides
12 the expertise which the company requires to insure that its
13 construction sites and its operating facilities are in
14 compliance with pertinent environmental regulations.

15 Its personnel have expertise in the area of
16 freshwater marine aquatic systems, terrestrial habitats,
17 air quality, metallurgic, meteorological and seismic monitoring
18 permits.

19 Now also in this area we have some very
20 sophisticated laboratories at the Harris --

21 Q. Pardon me?

22 A. -- sophisticated laboratories at the Harris
23 Environmental Center that is used to support all of our
24 nuclear operations from a metallurgical standpoint as well
25 as many other aspects of the technical areas that are

AGB/agb11

1 required to assure that our power plants are built correctly
2 and operated safely.

3 Q Now one of the things under operations support
4 would be the fuel purchase, is it not?

5 A That's correct.

6 Q Does that also include the purchasing of coal
7 for the coal plants?

8 A Yes, it does.

9 Q And materials, would that be purchasing materials
10 for all the power generation facilities, including the coal
11 plants?

12 A Excluding construction purchasing.

13 Q And that would come under Mr. McDuffie's
14 department?

15 A That is correct.

16 Q In the third panel is a Mr. Powell who is the
17 director of training for Shearon Harris. How does he fit
18 into this scheme?

19 A He is the person responsible for the training
20 and qualification of personnel that will be operating and
21 maintaining the Harris plant.

22 Q Now does he report to Mr. Watson or to Mr. Davis?

23 A He reports in under Mr. Davis' organization.

24 Q So he would be with operation support then, but
25 in charge of the Harris training.

AGB/agbl2

1 A Yes. We have a centralized training organization
2 that is separate and apart from our line organization.

3 Now we did that for special reasons: one is
4 these people are specialized in training and education, and
5 it also relieves the plant -- particularly the plant general
6 manager of the responsibility for developing and assuring
7 that this training is set up and is operated which, in turn,
8 takes a number of people off the staff of the plant general
9 manager, and permits him to concentrate more on the operation
10 of the plant.

11 We have found this to work very well.

12 Q Does the training at the Harris construction
13 plant -- where does that fit in? Would that also be under
14 operation support?

15 A Would you ask that question again?

16 Q Where does the training for the Harris plant
17 construction fit in, is that under operation support?

18 A The Harris construction, that training is
19 principally carried out by construction people.

20 Q So one of your contractors would train their
21 own people?

22 A Well for example the Daniels Construction
23 organization has the primary responsibility for the craft
24 personnel for the construction of the Harris plant. They
25 also have the responsibility for a good deal of the

1 training.

2 There is specialized training and so forth that
3 will take place under our training organization.

4 Q Do you have a rough number of how many staff
5 people are in the operation support?

6 A I would have to look that up, I don't offhand
7 remember the exact number.

8 Q Mr. Davis is on one of the panels, I'll save
9 that question for him.

10 A Okay.

11 Q All right then.

12 Also reporting to you is the fossil generation
13 and power transmission under L.W. Urey.

14 A That is correct.

15 Q What does this department do?

16 A Well under Mr. Urey, he has the responsibilities
17 for all of the fossil and hydro generation, in addition
18 to the system operations and transmission substation
19 maintenance. This includes hydro, oil, as well as coal.

20 Q How many coal plants does CP&L operate?

21 A I'll have to add them up.

22 Let me say 11 subject to check.

23 Q And how many oil plants?

24 A We do not have any plants that are oil other than
25 internal combustion turbines.

AGB/agbl4

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We do have an internal combustion turbine operation at our Hartsville -- at our Darlington County plant and we have one isolated internal combustion turbine at Morehead City, and the others are located at our fossil plants.

end AGB9
AGB10flws

AGB10/eb1

1 Q And then how many hydro plants?

2 A We have Walter, Marshall, Bluetts, Hillory.

3 Q I count four, so that's another approximately
4 15 power plants besides the nuclear power plants, is it not?

5 A That's approximately correct.

6 Q Do you have a rough figure of how many personnel
7 are at those other power plants?

8 A Let me say around 1000, 1100 people.

9 Q So roughly 1000?

10 A In the ballpark.

11 Q And the last department that reports to you would
12 be the Brunswick Nuclear Project under Mr. Howe, is it not?

13 A That is correct.

14 Q And Mr. Howe is on a panel, another panel, is he
15 not?

16 A Yes.

17 Q What responsibilities does the Brunswick Nuclear
18 Project have?

19 A Mr. Howe has the total responsibility for the
20 operation of the Brunswick project. That includes all
21 activities that take place at the site, excluding the
22 responsibility for quality assurance, cooperate nuclear
23 safety, and the training responsibilities. And he does have
24 some responsibility for onsite training that does not come
25 under Mr. Davis' direction.

GB/eb2

1 Q And Mr. Howe reports directly to you, does he not?

2 A Yes, he does.

3 Q How often are you in contact with Mr. Howe?

4 A Quite frequently.

5 Q On a daily basis?

6 A You could almost say on a daily basis. It is
7 a normal practice that we will be in communications by
8 telephone practically every morning before eight o'clock.

9 Q And how frequently is Mr. Howe and Mr. McDuffie
10 in contact with each other?

11 A To the extent Mr. Howe needs to be in order to
12 carry out his responsibilities for the Brunswick site. That
13 interface takes place in varying degrees, depending on the
14 conditions that prevail and what is taking place.

15 Q Do you ever sit down with both Mr. McDuffie and
16 Mr. Howe and discuss the nuclear reactors in the nuclear
17 program?

18 A Yes, we do.

19 Q How often do you do that?

20 A We do it at least monthly, and more frequently if
21 there are situations that involves Mr. McDuffie as it relates
22 to the Brunswick site.

23 Q So there are six department heads, whatever their
24 titles might be, that report directly to you, are there not?

25 A That's correct.

AGB/eb3

1 Q How do you decide which one to talk to? How do you
2 decide which one is the most crucial, that needs your
3 attention the most?

4 A Well, of course I get numerous reports and I am
5 in frequent contact with the different people. And having
6 33 years experience in the power generation field, by my
7 judgment I determine and decide what is important to the
8 operation of the overall company in this regard. And that
9 sets the priorities in which I communicate and talk with
10 these people.

11 Q What are the things which are most important to the
12 company?

13 A Well, number one of course is the safe operation
14 of nuclear power plants. And beyond that is the efficient
15 operation of all nuclear generation facilities to provide
16 power to the consumer at the lowest reasonable cost.

17 Q What takes precedence in the company, a coal plant
18 or a nuclear plant, or do you ever have to decide on that
19 basis?

20 A You never have to make that decision. At least
21 that has not been the case over the last several years
22 because the priorities have been obviously nuclear, and that
23 is where a large percentage of my time has been devoted.

24 Q Can you give us an estimate of what percentage of
25 your time has been spent on nuclear plants?

AGB/eb4

1 A There have been periods where 100 percent has been
2 spent on the nuclear. I would say on the whole 85 to 90
3 percent over the last -- certainly over the last four or five
4 year period.

5 Q And you report to Mr. Smith. Now who else reports
6 directly to Mr. Smith?

7 A Well, the three Executive Vice Presidents report
8 to Mr. Smith, and also Mr. Martin, who is a Senior Vice
9 President responsible for Information Services. And he has
10 an assistant who reports to him, as well as a secretary.

11 Q So what are the other Executive Vice Presidents --
12 what are their responsibilities?

13 A We have-- Our financial officer is an Executive
14 Vice President who has the responsibility for the Treasury
15 and Accounting Departments, as well as the Audit Services.
16 And he also has a department or a section that is devoted
17 to performance.

18 And then we have Mr. Graham, who is responsible
19 for our Legal Department, Public Communications, Corporate
20 Communications, as well as Customer Services, and Rates and
21 Regulations.

22 Q And that would be under Mr. Graham then as
23 Executive Vice President?

24 A That's correct.

25 Q Do you have any estimate of the time that Mr. Smith

AGB/eb5

1 spends on the nuclear units or nuclear generation projects?

2 A Mr. Smith spent a good deal of time on nuclear
3 over the last few years, and he has made several trips to
4 our nuclear sites. He has participated in meetings at the
5 sites. He has also participated in some industry
6 organization that is devoted to nuclear. And he is available
7 any time that his services are needed in regard to the
8 nuclear operation.

9 Q What is his training and experience background?

10 A I'm not sure I am qualified to discuss Mr. Smith's
11 training and background. From my position and my knowledge
12 of Mr. Smith's experience, it has been several areas of the
13 company over the years since 1965. His professional training
14 is legal.

15 Q So could you describe how he makes a decision on
16 how to spend his time?

17 A I am sure it is based on his past experience and
18 judgment, and knowing the operations of this company and
19 knowing what is important, what is most important to the
20 company is used to guide him in his decisions. That is the
21 reason he has devoted a good deal of time to the nuclear
22 aspects of this operation because it is very important to
23 knowledge of this company.

24 Q And from Mr. Smith's point of view, what would be
25 the most important area for the company?

AGB/eb6 1

2 A Well, as I just stated, one of the most important
3 areas is nuclear operations which is very important to the
4 economic success of the company. And in addition, our
5 fossil and hydro generation is very important, as well as
6 all aspects of our operation.

7 Q And those other aspects would be providing service
8 to the customers, as well as the financial aspects of rates?

9 A That's correct.

10 Q So he would make considerations based on a blend
11 of a number of things, would he not?

12 A He would make his decisions like most any manager
13 makes his decisions in looking at his scope of responsibility,
14 and he would set his priorities depending on where his time
15 could be best spent to provide the most results for the
16 operation of the company.

17 Q Mr. Utley, are you also a director--

18 A I am a director of Carolina Power and Light
19 Company.

20 Q When did you become a director?

21 A I have been a director -- it will be two years
22 mid-September.

23 Q In looking at Utley et al., Attachment 1, when did
24 this corporate nuclear organization -- when was it put into
25 effect?

A I think to fairly answer that question I need to

GB/eb7

1 go back and carry you through a discussion that starts back
2 in 1979. At that point in time as we built and designed and
3 operated plants, both the fossil and the nuclear plants,
4 it was customary to build a plant, complete the plant, and
5 move the construction forces offsite, and then it was an
6 operating plant from that point forward. That is really
7 what transpired in regard to the construction and operation
8 of our Robinson plant that went into service in March, 1971.

9 We placed the Brunswick operations in service in
10 1975 and 1977 respectively, and we were in the process of
11 completing construction work and were at a point of looking
12 to the future of reducing forces, at which time we
13 experienced the Three Mile Island accident in March, 1979.
14 And of course with that incident came thousands of changes
15 in our regulations, and many, many requirements for
16 modifications on our nuclear facilities.

17 It was at this point that really the industry
18 entered a period in which it was pioneering in new areas
19 and that is trying to operate and construct plants at the
20 same time. We moved into a major modification program at
21 Brunswick, making changes to our organization on a frequent
22 basis to deal with the thousands of people it was necessary
23 to have onsite, many of them working construction work, a
24 number of them not being trained and accustomed to working
25 in radiation environments.

AGB/eb8

1 We moved through this period with the problems
2 that have been highlighted in many publications at Brunswick.
3 We moved through that period at the same time increasing our
4 organization and making changes to our management structure
5 to deal with the problems on a step-by-step basis, doing the
6 best job that was feasible to do in regard to looking at what
7 the requirements would be out in the future.

8 This carried us through to 1982 when it became
9 obvious that the operation and management of a nuclear site
10 was going to involve major modifications with a large number
11 of construction people being involved at the sites, working
12 inside the security areas as well as inside the radiation
13 protection areas, requiring a great deal of engineering
14 talent to design modifications.

15 In looking at the structure that prevailed at that
16 time with the engineering, construction and operation
17 reporting up from the site to the general office under two
18 separate departments, it became obvious that to make prompt
19 decisions that were required at a nuclear site, looking at
20 the complications and the complicities of an operating
21 facility that it was going to be necessary to place a
22 high-level management person at the site, managing all of the
23 facilities and in a position to make decisions for the
24 company in a short period of time such that we could properly
25 manage and coordinate all activities at the site to work for

AGB/eb91 the best benefit of meeting all the requirements in regard to
2 the operation of a nuclear plant.

3 So at that time we set up Mr. Howe, who is a
4 corporate officer and a Vice President, over that facility.
5 This was in 1982. And I also set that up reporting directly
6 to me.

7 Now we are one of the few utilities that has a
8 nuclear site that only has one level of management between
9 the site and the chief executive officer, and there were good
10 reasons for us setting that arrangement up, because I
11 reported to the chief executive officer, and Mr. Howe
12 reported to me, and it didn't take very many minutes to get
13 decisions on most anything that needed to take place in
14 regard to the operation of that facility.

15 We observed the results of that operation for a
16 period until 1983 and when we assessed the results of that
17 arrangement it became obvious that the results that we were
18 getting was paying big dividends and we were pleased with
19 the results.

20 So consequently we structured the Robinson and
21 Harris plants in a similar way where we set up department
22 head level people at each of those sites, the corporate
23 officer being set up at the Harris site, a department head
24 level person as manager at the Robinson site, those two
25 people reporting to the Senior Vice President of Nuclear

AGB/eb10

1 Generation, Mr. M. A. McDuffie.

2 The idea of this organization as it was structured
3 and as it has been explained to the Nuclear Regulatory
4 Commission is that we will move toward one person being in
5 control of all the nuclear generation at the appropriate
6 time, and that is the manager of the Brunswick site would be
7 moved over, reporting to the Senior Vice President over
8 Nuclear Generation.

9 The time at which we will make that move has not
10 been decided, and we are continuing to look at the progress
11 that we are making at Brunswick and when it becomes appropriate
12 based on Mr. Smith's and my judgment, consulting with people
13 that seem to be appropriate to consult with, we would make
14 that change which would put everything, all of our nuclear
15 generation under one Senior Vice President, who is the man
16 who fills that position at this time, Mr. McDuffie.

B11

17 Q That would bring us to-- That gets us to JI Cross
18 Exhibit Number 3, Mr. Utley. Do you have a copy of that in
19 front of you?

20 A Not that I know of.

End 10

#11 AGB/wbl

1 I do have that before me at the present time. It's
2 a three-page typewritten letter written to Chairman Palladino,
3 Chairman of the Nuclear Regulatory Commission, and I have not
4 read this article, so far as I know.

5 Q. You have never seen this article before now?

6 A. I wouldn't say I haven't seen it. I have not read
7 it.

8 JUDGE KELLEY: Do you want to take a minute or two
9 to take a closer look?

10 WITNESS UTLEY: I would like to, if I'm going to
11 be asked questions about it.

12 JUDGE KELLEY: Let's not break at this point; it would
13 be too soon. But let's just give the gentleman a chance to
14 look it over. --and the Board, for that matter.

15 (Pause.)

16 JUDGE KELLEY: Let me just mention a threshold
17 concern that I've got, Mr. Runkle, about this particular
18 exhibit as distinguished from all the others, at least of the
19 ones I've seen. You may come across this, and you may not have,
20 but the ACRS letters, as they're called, have a sort of special
21 status in NRC cases. The short of it is, they don't come in
22 as substantive evidence under the matters asserted in the letter
23 because this is the product of a collegial body which isn't
24 here. There are some cases to that effect.

25 Let me just ask you what direction were you thinking

AGBwb2

1 of with regard to this letter? I mean, I can think of your
2 saying to the witness "Do you read ACRS letters; yes or no?
3 Did you read this one; yes or no?" And it's significant
4 whether he reads them or not, but it's another thing to get
5 into what it says about any particular problem, whether it's
6 control room design or management or whatever, it seems to me.

7 MR. RUNKLE: I'd to make an offer of proof on
8 this. If you would look at the second paragraph on the
9 second page where it talks about the management restructuring--

10 JUDGE KELLEY: Okay. Is your focus all on that
11 paragraph, what I'll call the management paragraph?

12 MR. RUNKLE: Yes.

13 JUDGE KELLEY: You wanted to ask questions about
14 that?

15 MR. RUNKLE: Yes.

16 JUDGE KELLEY: You understand my concern? I mean,
17 if this is to be used to prove that the ACRS thinks there
18 are management problems at Shearon Harris, I would object to
19 that on the Board's behalf, because you can't use an ACRS
20 letter for that purpose.

21 MR. RUNKLE: Actually, the letter doesn't say --
22 it doesn't talk about the management problems at Shearon
23 Harris or anywhere else, it just says they were restructuring
24 organization under--

25 JUDGE KELLEY: Maybe the best thing is just to let

AGBwb3 1 you put your questions. I don't mean for you not to have
2 that chance; I just want to flag the fact that we've got
3 a concern owing to the rather unique status of these particular
4 documents. But, go ahead for the moment, subject to the
5 possibility of objection from other counsel.

6 MR. RUNKLE: I wasn't aware of that special
7 objection. Mr. Barth asserted it on all the parties in
8 January of this year as just a matter of information, I believe.

9 JUDGE KELLEY: Go ahead.

10 BY MR. RUNKLE:

11 Q Mr. Utley, let me draw your attention to the
12 second page of this letter, the third sentence, which starts
13 with "CP&L has taken measures to improve management...."

14 Would you read the next couple of sentences of that?

15 A (Witness Utley) "CP&L has taken measures to
16 improve management functions and capabilities.
17 These include restructuring of corporate organiza-
18 tion which will eventually result in a consolidation
19 of CP&L's nuclear organization under one senior
20 manager. The restructuring also provides for a
21 corporate level executive to be located on-site as
22 member of involved site management to insure greater
23 access to resources, and to enhance the ability to
24 initiate new programs from the site. These efforts
25 are expected to correct the past deficiencies.

AGBwb4

1 "Members of the Region II staff reported
2 orally during the meeting that significant improve-
3 ment in performance has been observed since the
4 last SALP inspection.

5 "The Committee believes that written evidence
6 of an improvement in CP&L's nuclear operation which
7 could, for example, be reported in the two scheduled
8 SALP reviews prior to fuel loading should be
9 available prior to fuel loading for full power
10 operation. We wish to be kept informed."

11 I would like to say that the most recent SALP
12 report is a report that reflects what I have just discussed in
13 regard to management changes, and which, in turn, also
14 supports some of the results that I mentioned in regard to the
15 organization, and this report shows improvements in nine of
16 ten categories at our Brunswick plant, it showed seven of ten
17 improvements at the Robinson plant, and it showed three or
18 four improvements of ten at our Harris plant.

19 I would like to comment on some of the reasons for
20 a lower number of improvements at the Harris site; that is,
21 we have gotten reasonably good SALP reports on the Harris
22 project. As far as I can recall, I don't think we've ever had
23 below a Level 2 assessment by an SALP report at our Harris
24 project. So, consequently, there was less room for Harris in
25 this SALP report versus prior reports.

AGBwb5

1 The report commented on the fact that significant
2 improvements have been made in our operations, and that strength
3 had been exhibited in several areas. And I think this just
4 supports what I got through testifying to in regard to a
5 description of the organization changes that we've made.

6 Q I had asked you to read that for some other
7 questions--

8 A Excuse me a second; I've just been prompted to note
9 that there was a Level-3 on the Shearon Harris plant; however,
10 it's related to licensing, which was not a specific -- could
11 not be looked at as a specific responsibility of the
12 Harris site itself. That's a corporate responsibility and is
13 partly shared by corporate in regard to that particular
14 rating.

15 Q Do you read the SALP reports when they're issued?

16 A I certainly do.

17 Q Do you, as a manager, put weight behind the find-
18 ings of the NRC in the SALP reports?

19 A I have a high degree of respect for the capability
20 of the NRC organization, and I certainly pay very careful
21 attention to their assessment of our project.

22 Q And are you aware that the Staff intends in this
23 proceeding to put into the record the fourth SALP report, the
24 one that was just issued last week? Are you aware of that?

25 A I can't say that I was specifically aware that they

AGBwb6

1 were going to make that a part of the record.

2 MR. RUNKLE: Your Honor, if I want to put in--
3 I mean, we've talked about exhibits and everything. If I
4 wanted to put in the first three SALP reports, how would I
5 go about doing it? How many copies would I need?

6 JUDGE KELLEY: Let me ask-- Mr. Barth would be
7 the one, the logical one, I guess.

8 Are you proposing to offer the SALP reports ?

9 MR. BARTH: We intend, your Honor, to offer the most
10 recent SALP report as an addition to Mr. Bemis' testimony in
11 our direct case. This is a report which came out after the
12 August 9th, 1974, filing date. We do not intend to offer any
13 of the other SALPs. And there is no fourth SALP; there are
14 two previous ones to this one.

15 JUDGE KELLEY: The most recent one, that's the
16 one you served just recently; correct?

17 MR. BARTH: That's correct, your Honor.

18 JUDGE KELLEY: So that's the Staff's intention.

19 So I suppose you're talking, then, about two prior
20 ones. Three altogether; three total?

21 MR. RUNKLE: I have four copies of them.

22 MR. BARTH: I may well be wrong on the number,
23 your Honor.

24 JUDGE KELLEY: We should be able to establish that.
25 In any case, I guess in part you're asking the same question

1 that we argued about right after we came back from lunch.

2 They would be exhibits you're offering that you
3 hadn't offered before; right?

4 MR. RUNKLE: That's true, your HONOR. I hadn't
5 realized at this point that Mr. Utley put such weight onto
6 them.

7 MRS. FLYNN: That is not a basis for the admission
8 of the document at this time.

9 This goes to the very issue that we discussed
10 earlier. And applicants objects for the very reasons we
11 discussed.

12 MR. BARTH: I would also suggest, your Honor, that
13 the 1982 SALP report to which he has referred, was referred to
14 in an ACRS letter. It was also mentioned in Mr. Klute's
15 testimony. It has been well known a long time.

16 I would also like to point out that Appendix G to
17 the SER Supplement No. 1, which is Staff Exhibit No. 5 in
18 evidence is the ACRS letter which we are now discussing. It
19 is already in evidence, your HONOR.

20 JUDGE KELLEY: What is that, exactly? I thought it
21 must be.

22 MR. BARTH: Appendix G, your Honor, to Supplement
23 No. 1 to the Staff Safety Evaluation Report.

24 JUDGE KELLEY: The SER?

25 MR. BARTH: Yes, sir.

AGBwb8

1 JUDGE KELLEY: So this document is already in
2 evidence, and there needn't be any argument about its status,
3 except as to the point I was making earlier?

4 MR. BARTH: Yes, sir. I would not object to its
5 admission.

6 JUDGE KELLEY: Your question was, What would happen
7 if you offered the SALP reports. Well, if you offered one, he
8 would object and she would object, and then we'd argue about
9 it, I guess.

10 (Laughter.)

11 JUDGE KELLEY: One of the things that I think may be
12 a factor here: you know, it's one thing for me to have a
13 xerox of one page with one paragraph on it that somebody can
14 read pretty quickly and say, "Well, at least I know what it
15 says. I can handle that." and another thing to have a 50-page
16 report of whatever it may be.

17 Now, again, the part about Shearon Harris may be a
18 page and a half. But the more complicated it gets, the more
19 likely you are liable to get a claim from an objecting party,
20 learning at some late date that some fairly complicated
21 document is now in the case, or is proposed to be in the case.

22 I don't know what would happen if you had an
23 objection. Then we'd rule. That's about as much as I can
24 predict.

25 MR. RUNKLE: They're about eighty pages apiece.

AGBwb9

1 I'd have to see if it was worth my while to make that many
2 copies.

3 JUDGE KELLEY: I don't think we could say. I think
4 we'd just have to-- You can see if you could get a stipulation
5 at the next break, or at some point, from counsel as to whether
6 they'd object or not. That would be Step 1, I think.

7 MR. RUNKLE: It's an official NRC report, and I
8 think you could take official notice of it.

9 JUDGE KELLEY: I'm not so sure you wouldn't get an
10 argument on that, too.

11 Don't just assume we're going to go home and pull
12 everything off the shelf. We're down here to have cross-
13 examination on specific documents. Even if it says NUREG on
14 the top, that doesn't mean that it's in this case, necessarily.

15 BY MR. RUNKLE:

16 Q Mr. Utley, let's return to the ACRS letter in
17 front of you, and that part of the paragraph on the second
18 page that you have read.

19 In this letter it talks about consolidating CP&L's
20 nuclear organization under one senior manager.

21 Is that you.

22 A (Witness Utley) No, sir. As I testified, I stated
23 that the Brunswick nuclear plant now presently reports to me,
24 and that our program as described to the Nuclear Regulatory
25 Commission, anticipates that at an appropriate time, to be

AGBwb10 1 decided by the management of Carolina Power and Light Company,
2 the organization will be consolidated under one senior
3 manager. That manager will be the manager -- the senior
4 vice president for nuclear generation. That position is
5 presently filled by Mr. M. A. McDuffie.

6 Q So at this time there is not one senior manager in
7 charge of the nuclear organization?

8 A There is a senior manager, the executive vice
9 president, Ed Utley, who has the total responsibility for the
10 total nuclear program at the present time.

11 Q And you cannot give us any estima-
12 tion as to when the decision will be made to restructure the
13 organization under some one else besides Ed Utley, can you?

14 A I cannot; no, sir.

15 Q But that is the way you are going in the organiza-
16 tion?

17 A That is the way I would anticipate we would be
18 organized at such time in the judgment of the management of
19 Carolina Power and Light Company as being an improvement over
20 the way we operate at the present time.

End-11 21

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C12 WRBwbl 1 Q But that is the way you are structuring the organiza-
2 tion?

3 A That is the way we would anticipate we would be
4 organized at such time, in the judgment of the management of
5 Carolina Power and Light Company, to be an improvement over the
6 way we operate at the present time.

7 Q Mr. Utley, as you have testified before we went into
8 this ACRS letter, about starting-- You gave us a history of the
9 corporate structure and restructuring since 1979. You started
10 off by talking about the Robinson plant, did you not?

11 A As I recall, that's correct.

12 Q Who constructed the Robinson plant?

13 A The Robinson plant was a turnkey project. The
14 architect-engineer on Robinson was Ebasco Services, and the
15 plant was under the direction of Westinghouse Corporation.

16 Q What do you mean when you refer to a turnkey plant?

17 A We agreed with Westinghouse Electric Corporation to
18 pay them a price for a plant that was built to meet certain
19 specifications which we monitored for the operation of our system.

20 Q And what involvement did CP&L have in the design and
21 construction of the Robinson plant?

22 A Mr. McDuffie had direct participation in that. And
23 I think he could give you a more detailed explanation of that
24 than I can.

25 Q Mr. McDuffie, can you answer that question?

WRBwb2

1 A. (Mr. McDuffie) Westinghouse had the responsibility
2 for the project, and did it under a contract with CP&L. And
3 the contract did specify certain conditions for the plant size,
4 some of the arrangements, and some of the equipment. But
5 the engineering and the construction was totally the responsi-
6 bility of Westinghouse, with overview by CP&L -- the QA overview,
7 startup overview. The startup of the plant was performed
8 jointly by CP&L and Westinghouse. And operation during the
9 startup phase and later was a CP&L responsibility.

10 Q. And the QA at Robinson, was that during the
11 construction phase?

12 A. The form of QA at that time was, of course, much
13 different from what it is today. Westinghouse and its contrac-
14 tors had responsibility for preparing the inspection procedures,
15 doing the actual inspection and the non-destructive testing.
16 CP&L had a resident engineer at the site who monitored the
17 Westinghouse program along with the Westinghouse contractors.

18 Q. So in the terms we have been using earlier today,
19 Westinghouse was responsible for the QC on the construction?

20 A. Westinghouse and its contractors.

21 Q. Mr. Utley, you talked about in 1979 changing your
22 corporate structure, your corporate management.

23 Why did you go about doing this in 1979?

24 A. (Witness Utley) Well, as is always the case when
25 you're making management changes, you are look at the

WRBwb3

1 responsibilities and the scope of work, and how you can better
2 structure an organization to give you more efficient operations.

3 And, of course, as we looked at the work load that
4 was being brought about by a number of things such as the
5 increase in regulations, it became obvious that we needed to
6 consolidate responsibilities to a greater degree at that time
7 than was -- than prevailed. So, consequently, we made some
8 changes at that date to start consolidating management
9 responsibilities.

10 In late '79 there was a separation of the nuclear
11 operations from fossil operations, and the placement of
12 nuclear operations under the direction of a corporation officer.
13 This separation was made in recognition of the changes that I
14 mentioned. And at that time we were aware of the Three Mile
15 Island incident and were beginning to see significant effects
16 flowing from that.

17 Q Sir, did you participate at all in the construction
18 permit of the Shearon Harris plant?

19 A I could have participated in regard to the organiza-
20 tion structure for the operations of that facility. I don't
21 remember specifically whether I did or did not.

22 Q Are you familiar with the 1979 remand hearings on
23 the construction permit?

24 A Yes. I'm aware of those hearings, yes.

25 Q Did you testify at those hearings?

WRBwb4

1 A Yes, I did.

2 Q What were -- just briefly, what were the main
3 issues discussed at the 1979 remand hearings?

4 A As I recall, those hearings principally were focussed
5 around some reports that were made by the on-site inspector in
6 regard to certain aspects of the operation of the Brunswick
7 plant.

8 Q And that inspector would be Mr. Cantrell?

9 A That's correct.

10 Q And what were some of the -- briefly, what were
11 some of the problems at the Brunswick plant?

12 A Well, I would term the problems, from an overall
13 management position that prevailed at that time, in the category
14 of programmatic and management controls. The basic management
15 focus needed to be improved. Of course, the changes that I
16 mentioned in late '79 and before that, the changes gave a direct
17 focus of the activities that prevailed at the Brunswick site.

18 Q What do you mean by "programmatic and management
19 controls?"

20 A Well, it has to do with the overall control and
21 discipline of people to follow programs, procedures, and to
22 carry things out in a specific way, documenting their activities.
23 And it does not necessarily relate to the way the operation
24 might have been carried out.

25 Q So at the Brunswick plant, and during that period

WRBwb5

1 before the '79 remand, one of the problems would be in staffing
2 and manpower.

3 Q You say "staffing and manpower." Can you be more
4 specific?

5 A In the '79 remand hearings, which is CP&L Docket
6 No. 50-400 to 403, you stated at page 51 of that transcript,

7 "It is clear, with the benefit of hindsight,
8 that the Brunswick plant did not have sufficient
9 permanent staff during the startup and initial
10 operation. CP&L management's view of requirement
11 manpower underwent frequent upward revisions."

12 A I support that testimony.

13 Q And that's what I was referring to about sufficient
14 staff for startup and initial operation. Was that one of the
15 primary problems?

16 A Again, I would not characterize it as the primary
17 problem. That was a contributing problem.

18 Q And what was the primary problem?

19 A Well, as I stated previously, the overall primary
20 problem as I assess it, was the overall management and discip-
21 line and control of the activities.

22 Q And what activities were those?

23 A Well, to specifically say it was a specific
24 activity without being more specific in your question is hard
25 for me to answer.

WRBwb6

1 Q Were LERs a problem at that time?

2 A Well, there were a number of LERS. And, of course,
3 that is an indication of things that are not the way you
4 would like for them to be. The seriousness of LERS varies all
5 over the map, some very insignificant and some being a
6 significant issue.

7 Q And for the record, what is an LER?

8 A That's a License Event Report.

9 JUDGE KELLEY: Are we approaching a point where we
10 can take a break?

11 MR. RUNKLE: Yes, this would be a good time.

12 WITNESS UTLEY: Your Honor, could I correct one
13 misstatement I made in regard to the number of fossil plants?
14 I think that number would be eight, rather than eleven.

15 JUDGE KELLEY: Thank you.

16 BY MR. RUNKLE:

17 Q Eight fossil plants?

18 A (Witness Utley) Eight fossil plants. I was including
19 some other plants in that number.

20 JUDGE KELLEY: We'll take a recess at this time.

21 (Recess.)

22 JUDGE KELLEY: We'll go back on the record.

23 It's about quarter after four. Why don't we plan
24 on resuming at this point and stopping at about five-thirty
25 for the day, right around there?

WRBwb7

1 Go ahead, Mr. Runkle.

2 BY MR. RUNKLE:

3 Q Mr. Utley, I just asked you before the break about
4 LERs, and you say that they were Licensee Event Reports. What
5 are some of the kinds of LERs that come from the nuclear power
6 plants?

7 A (Witness Utley) Well, you have LERs in regard to
8 malfunction of certain equipment, and so forth. And these
9 are reported. It's a judgment call on the part of the
10 operations whether it is an LER or isn't an LER, depending on
11 the conscientiousness of the individuals, which will, to some
12 degree, have a bearing on the numbers as they were determined
13 back at that time.

14 But let me point out that from a management stand-
15 point, and looking at the LERs and the numbers and whatever,
16 I would be the first to admit the numbers of LERs that we
17 were experiencing was over and above what we looked at as
18 being appropriate. And it was these types of things that
19 prompted us to continue to make management changes, as I have
20 just got through discussing. And to carry those changes down to
21 a lower level in the organization to give you a feel for the
22 dedicated effort on the part of management to work our way out
23 of these problems, I think would be beneficial in regard to the
24 question you're asking in respect to the LER events.

25 Late in '79, at Brunswick, concurrent with the

WRBwb8

1 establishment of the Nuclear Operations Department. we
2 established a manager-level position for maintenance operations,
3 and a director for nuclear safety and QA at the site. We
4 also re-organized to provide a shift operating supervisor and
5 three shift foremen on each shift. Previously, the operating
6 shift consisted of one shift foreman responsible for the
7 operation of both units and the radwaste system.

8 Early in 1980 we established the Brunswick
9 Engineering Support Unit, an extension of the nuclear plant
10 engineering department here in the corporate office.

11 In mid-1980 we established the position of manager
12 of environmental and radiation control, again in response to
13 Three Mile Island and the increased number of regulatory
14 requirements.

15 In mid-1980 we established a manager of plant
16 operation position to coordinate the day-to-day operations of
17 maintenance and radiation control activities.

18 A major initiative to restructure the maintenance
19 program was begun late in 1980. Organization changes to the
20 health physics program. Health physics and chemistry were
21 divided, and the staffs were expanded.

22 Then early in '81 we consolidated into a single
23 department for the QA/QC functions previously assigned to
24 three departments. Previously Engineering and Construction QA/QC
25 activities were assigned to the Technical Services Department.

WRBwb9

1 The QA/QC at operating plants was assigned to the Nuclear
2 Operations Department, and the corporate QA audit was assigned
3 to the Nuclear Safety and Research Department.

4 Now if you want to look at the way we are organized
5 today, I think you will see that it's a much stronger organiza-
6 tion than prevailed prior to 1981, where today we have
7 Mr. Banks over our total quality assurance/quality control
8 program reporting to me for the responsibility for all quality
9 assurance/quality control activities, both operations and
10 construction.

11 Then we went from there into the configuration that
12 we have today in regard to the overall site managers at each
13 of our sites.

14 I review this to give you a good feel for the fact
15 that management realized there were problems. We were not
16 satisfied with the operations. We were making changes day-in
17 and day-out. The changes I mention here are significant
18 management changes that required considerable recruiting on
19 my part, as well as on a lot of other peoples' part in getting
20 key people to fill key positions to strengthen and better
21 control the problem that I identified earlier in my comments.
22 And I think today as we look at the result that is coming
23 out of our operations, and particularly at Brunswick as reported
24 by some of the officials of NRC, as well as highlighted in our
25 SALP reports, as well as recognized by industry visits by

WRBwb10 1 other companies, as well as having industry -- other industry
2 come in to look at what we are doing as ways they can go back
3 and improve their organizations, I think clearly demonstrates
4 that we have dealt with a tough problem in a very prudent way,
5 and we now have gotten control of this program, and we are
6 demonstrating, not only to CP&L but to the world, that we
7 are operating our nuclear plants, which in turn has deserved
8 the comment that we are a well-operated utility by some rather
9 high level people in the Nuclear Regulatory Commission.

10 I think that having gone through this experience
11 has really toughened us as individuals and as managers in
12 regard to being able to deal with problems and make changes
13 and correct problems, which in turn makes us a much stronger
14 team. And I cannot say enough about the team effort that
15 has transpired at our Brunswick, Robinson and Harris facilities.

16 It is fully our intent to continue to establish
17 programs that will provide programs for the people to rally
18 around, to make these programs a continuing effort as we move
19 into the future.

20 It does not make me feel good to continue to read
21 about all the excellent operations we see, not only in this
22 country but also in foreign countries. So until our plants
23 are looked at as being one of those plants, we, at CP&L, are
24 not going to be satisfied.

25 Q. And do you review the LERS when they are filed?

WRBwb11 1 A Yes; I do get a review of these LERs, not when
2 they are filed. I do get reports that show me what is taking
3 place in regard to LERs.

4 Q And do you review those to determine trends, or
5 repeat occurrences, or problem areas?

6 A Yes. Yes, I look at the trends. In fact, as I
7 recall my testimony in 1979, somewhere in that testimony I
8 made a statement that we had initiated that effort, a special
9 task force to work on and correct these LER problems.

10 I must say, it took a longer period of time to
11 turn them around than I now look at as being reasonable. But
12 we did put forth a dedicated effort, and we are now headed
13 in the right direction.

14 Q Between 1979 and 1982 what were some of the major
15 modifications that happened at the Brunswick plant?

16 A Between '79 and '82? I tend to have some problems
17 in keeping these years separate exactly as to what transpired
18 when.

19 But to give you a general run-down and overview
20 of significant modifications that have taken place at
21 Brunswick, particularly at Brunswick: we put in new offgas
22 systems on both units. This is a significant modification.
23 We re-tubed both main steam condensers, and some of this work
24 is just now being completed, but we do anticipate it will be
25 in a complete stage by November.

WRBwb12

1 We have made just numerous modifications to pipe
2 hangers. We have made modifications to comply with the
3 requirements of the fire codes. On Appendix R we still have a
4 big effort to be accomplished.

5 But going back to the period that you mentioned,
6 significant work was carried out during that period in up-
7 grading the fire protection systems at the sites.

8 Torus work. This is the suppression pool underneath
9 the reactor vessel. There has been significant modifications
10 made in respect to proper mounting of piping inside this torus
11 to assure that it all stays in place in case of an earthquake.
12 This work will soon come to a completion.

13 Q In replacing, say, the offgas units, why did they
14 need to be replaced?

15 A Well, if you go back to the time frame in which
16 Brunswick was conceived, there was not that much experience
17 in regard to operating offgas systems, and there were several
18 designs on the market, and it turned out that the design that
19 we initially purchased, even though from a design standpoint
20 everything indicated it was the preferred design to install,
21 turned out not to be a satisfactory design that could be
22 operated in a practical way. So, consequently, it was neces-
23 sary for us to bit the bullet, to spend an additional several
24 million dollars to put in a new offgas system that have been
25 proven in operation in other plants; for example, Quad Cities

WRBwb13 1 had a system similar to what we had put in that had given
2 good service. They happened to catch this right at the time
3 those units were going in service -- in 1974, as I recall,
4 '75, somewhere in that time frame -- and had put theirs in
5 before they started up the plant.

End 12

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WRBpp 1

#13

1 Q And you backfitted those in that period, '79 and '80?

2 A The offgas systems on Unit 1 was installed last year.

3 The offgas system is being completed on Unit 2 at this time.

4 It will be completed in the next month or two.

5 Q Are these units safer with the new offgas system?

6 A I would not say that it makes the unit safer. It

7 provides a system by which you can treat the offgas and

8 comply with regulations in a way that would require you to

9 have to shut down otherwise if you particularly had leaking

10 fuel.

11 Q So if there had been no regulatory changes would

12 CP&L had changed offgas units?

13 A I'm not sure there were any regulatory changes

14 that came about that required this change. It was a matter

15 of having a system installed that did not do the job and

16 putting in a different design that would do the job.

17 Q And that's primarily -- the operations would

18 primarily respond to leaking fuel conditions?

19 A Well, in the offgas releases that you wanted to

20 make from the plant are processed through the system which

21 it turned under certain circumstances would permit you to

22 continue to operate whereby in other circumstances you

23 possibly would have to shut down.

24 Q Did the NRC place a condition on the operating

25 license for the Brunswick Plant requiring the offgas units

pp2

1 to be changed?

2 A As I recall that was a condition -- I forget
3 exactly how that was stipulated -- but there was a
4 requirement on our part to change it out, let me put it
5 that way.

6 Q And those -- that Unit 2 should be changed fairly
7 soon, the offgas system?

8 A Yes.

9 Q And retubing the main steam condensers when was
10 this finished?

11 A Unit 1 was finished in 1983 and Unit 2 will be
12 finished in the next couple of months. The fact of the
13 matter is the condenser work is, for all practical purposes,
14 complete and hydrotests have been run.

15 Q And the current outage at Unit 2, that's one of
16 the things that's being done?

17 A That's correct.

18 Q Why did CP&L deem it necessary to retube the
19 main steam condensers?

20 A Well, there were several reasons for needing
21 to retube these condensers. One was from an operating
22 standpoint it had an impact on operating capacity because
23 of the leakage that took place. The other, it put a
24 heavier load on our waste treatment systems. And the cost
25 at all the aspects of the operations made it prudent to

pp3

1 change out.

2 Q When you talk about having a load on waste
3 treatment systems, what does that mean?

4 A That is the treatment of waste in preparation
5 for shipment offsite?

6 Q So that would be radioactive waste?

7 A In some cases. In other cases, it would be --
8 yes.

9 Q Was there an initial design flaw in the main
10 steam condensers?

11 A I would not say it was a design flaw, per se. It
12 was a situation where the design was such that it was
13 impractical or impossible practically to have a completely
14 tight condenser at the interface of the tube and the tube
15 sheet continued to have loosening of these tubes which
16 permitted a small in-leakage and, of course, operating on
17 saltwater, any in-leakage is prohibited in regard to
18 maintaining the specifications on the feedwater.

19 Q So to repeat my question, was this a design
20 problem or was this a construction problem or --

21 A Well, you can characterize it as a design problem
22 in that in the operations the expansion and contractions of
23 these tubes, there was not a movement of the tube sheet that
24 agreed with the movement of the tubes. So, consequently,
25 there had to be a movement within the tube sheet to

pp4

1 compensate with that that brought about leakage.

2 MR. RUNKLE: Excuse me a moment, your Honor.

3 (Pause.)

4 A To clarify one issue that may be clearly raising
5 a question in your mind on this design, there were copper
6 nickel tubes installed in this condenser which were
7 considered the state of the art design back at the time
8 these condensers were conceived. Today, a better designed
9 tube, titanium is used practically on all saltwater operations.
10 And this was also an upgrade in respect to those condensers.

11 BY MR. RUNKLE:

12 Q Were the specifications for these the same, you
13 know, before the plant was designed as after it was in
14 operation?

15 A Well, the specifications -- no, were not the same.
16 We redesigned in terms of that condenser tube to properly
17 support the new design tubes which meant in turn we had
18 to put in some additional support plates as I recall to
19 shorten the span that prevailed between the tube support
20 plates and the tubes.

21 And there were some other minor modifications on the
22 condensers that were changed. But these designs being
23 developed by our Carolina Power & Light Company engineers.

24 Q Who were the initial designers. Were they
25 members of Carolina Power & Light -- of the copper nickel

pp5

1 tubing?

2 A No. Those tubes were specified by United
3 Engineers. However, our in-house engineering group
4 reviewed that design and put their stamp of approval on it.

5 Q In leakage from the steam condensers, were there
6 specifications for that when the plant was being designed?

7 A Well, you design a condenser not to have leakage,
8 period. And we did have leakage.

9 A (Witness McDuffie) At the time that condenser
10 was bought and installed, it was customary to have a tube
11 sheet on the end of a single thickness. The tube protruded
12 through the sheet and you rolled it to make it tight.

13 Over the years some of the tubes loosened and began
14 to leak subsequent of the specification and fabrication
15 of the condensers at Brunswick, one of the manufacturers
16 developed the sheet which has an opening on the center of
17 the sheet. So when the tube protrudes you really roll it
18 twice and you can pressurize the groove and if you get
19 leakage, it's water from the groove. When we were made
20 aware of that and learned more about it, we bought the
21 grooved tube sheet which is an improvement over what we
22 had. In addition to installing them at Brunswick, we put
23 them in our latest fossil unit.

24 And we've also put them in the Robinson plant. They
25 work real well. They are a definite improvement over what

1 was specified initially. But initially we bought what was
2 available, what had been engineered up until that time.

3 Q You mentioned the Robinson and also one of the
4 fossil units. Was the same system -- will the same system be
5 in effect in the Harris Plant?

6 A Yes.

7 Q You're using the same there as you are at the
8 Brunswick Plant?

9 A (Witness Utley) As I recall, that was a
10 modification on the Harris design in the initial design.

11 A (Witness McDuffie) A condenser being re-tubed is
12 not something that has not happened in the past. A condenser
13 is not bought with the same pipe expectancy of a turbine
14 generator or a reactor. And over the years we have re-tubed
15 condensers at many of our plants.

16 Q Does it make a difference that in a boiling water
17 reactor that there is, perhaps, radioactive material in the
18 water. Would that have any -- make any difference on the
19 steam condenser?

20 A I have not heard anybody present facts that would
21 indicate that a BWR would cause a condenser to leak more
22 than a PWR.

23 Q But in the boiling water reactor, before you do
24 maintenance and any modifications on the steam condensers
25 would the radioactive steam make any difference on the approach

1 you took in maintaining

pp7

2 A (Witness Utley) Yes, on a boiling water reactor
3 of course the feedwater circulates directly from the reactor
4 back to the condenser through the turbine. And it is
5 radioactive.

6 On a PWR plant there is an interface between primary
7 and secondary that prevents interchange of primary coolant
8 with secondary coolant. So consequently on a BWR reactor
9 you do have a higher level of radioactivity than you do on
10 a pressurized water reactor which there should not be any
11 radioactivity on a PWR if your system is like it should
12 be.

13 Q In this time period there was also other
14 corrosion problems at Brunswick, were there not?

15 A Could you be more specific on that?

16 Q Is another one of the corrosion problems at
17 Brunswick during this period the corrosion of some cement
18 line piping into the surface water system?

19 A We did have an installation of service lined pipe
20 on the cooling water systems which carried brackish water
21 and there was some cracking of this concrete liner that fell
22 out in some places that made it necessary for us to go in
23 and repair this pipe.

24 Q Was another one of these corrosion and fouling
25 problems caused by shell growth in the surface water and

pp8

1 circulating waters?

2 A Shell growth has no bearing on corrosion other than
3 from the standpoint of any interference of the flow of water
4 that would cause erosion of the material, not corrosion

5 Q So that would be better termed a fouling problem
6 than a corrosion problem?

7 A That would be looked at as a fouling problem.

8 Q Was another problem during that time related to
9 radwaste problems caused by leakage of brackishwater which
10 also had to be processed via the radwaste system?

11 A Yes. We did have an excessive amount of radwaste
12 at the Brunswick Facility. And I have at this time as a
13 result of a lot of the changes that I've been through and
14 discussed, that problem no longer exists over and beyond
15 what's looked as a normal operating plant.

16 Q And any other problems that might have arisen by
17 brackishwater coming into contact with equipment that should
18 not come in contact with brackishwater. Have those problems
19 been corrected?

20 A Well, I'm sure we still have some of those problems
21 and any time you operate a power plant on brackishwater,
22 there's going to be problems of this type. The thing of it
23 is you need preventative maintenance programs that properly
24 predict this, and properly take care of it in a way that
25 doesn't permit it to be a problem that is not managed and

1 dealt with.

pp9

2 Q When did you implement your progressive maintenance
3 program -- preventive maintenance program?

4 A Well, I would say there was a preventive maintenance
5 program as such after the plants went in operation. Now,
6 a level at which this program has been managed and controlled
7 has varied and we are at the present time really setting
8 up a special program that is to really give us a much
9 improved preventive maintenance program over and above
10 what prevails now, although there is one in place at the
11 present time.

12 As I mentioned earlier in regard to continuing to
13 establish programs for people to rally around and continue
14 to keep interest in improvement, this is one of the programs
15 that is being looked at that will be in this category.

16 Q And what other type of programs would you be
17 implementing for people to rally around for safety?

18 A Well, I think there is a number of programs
19 and it's a matter of a level or a standard that you
20 establish that meets your requirements and we are continuing
21 to try to improve these standards in all areas of the plant.

22 One particular program that I think provides an
23 opportunity for the industry as well as Carolina Power & Light
24 Company is the ALARA program which is to limit -- to maintain
25 as low as reasonably possible all exposure, radioactive

pp10

1 exposure to not only the people working in the plants but
2 also the public. And I think they have some opportunities
3 in this area from my viewpoint that we will be pursuing as
4 we move into the future. And hopefully is going to establish
5 a level of accomplishment in Carolina Power & Light Company
6 that will get the attention of the industry.

7 Q And when you speak in terms of ALARA, that is
8 A-L-A-R-A. What does that stand for?

9 A That's as low as reasonably achievable.

10 Q In 1982 you stated earlier, that it became
11 obvious that the new management system that you had put into
12 place was not working to its utmost.

13 How did that come obvious?

14 A I don't recall exactly what my testimony was.
15 I don't remember those words.

16 I think the intent of what I was saying was that as
17 we moved into the '82 timeframe it became obvious in looking
18 at the complications of the operation and construction and
19 modifications that were taking place at particularly
20 Brunswick, it was appropriate to further consolidate the
21 responsibilities under one manager. And at that time we
22 set up Pat Howe with that responsibility at Brunswick.

23 Q Can you be a little bit more specific about
24 some of those observations that you made leading up to this?

25 A Well, I think if you look at the performance of

pp11

1 the plant, if you look at the compliance with procedures,
2 and you look at all the items that are in the Brunswick
3 improvement program, they were things that were not being
4 carried out to the level that met out requirements.
5 Neither did they meet the Nuclear Regulatory requirements.

6 Q That was in 1982?

7 A We had some of those type situations in '82.

8 Q And in testifying at the '79 remand hearings
9 did you not make a commitment to make improvements at the
10 Brunswick plant?

11 A We did make commitments and I think I've gone
12 through that step by step that led us from that point up
13 to today. I think I -- at least I tried to establish
14 the conditions that prevailed that were not foreseeable at
15 the time of the last remand hearing that tended to establish
16 conditions that were over and beyond anything that was
17 foreseeable at that time. So consequently the period of
18 time to get from where we were then to where we are now took
19 a longer period of time than we predicted. Or certainly
20 anticipated at that time.

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WRBpp 1

#14

1 Q Are you prepared now for things that you cannot
2 foresee now?

3 A But I don't think we can answer that question.

4 I think what we have to do is to look at standards that
5 satisfy what we consider to be exhibits of operation and
6 build our organization and train our organization and
7 establish programs that makes that happen.

8 Q And how would you measure those standards. What
9 kind of standards would those be?

10 A While there are many ways that you assess standards
11 of that type, one of course is a measure against the industry,
12 a measure against what is being in done in foreign countries,
13 a measure against how well you are complying with the
14 regulations, a measure against how well your plants are
15 operating and producing kilowatts.

16 Q So in comparing performance at Brunswick against
17 that of the industry, what are some of those kind of
18 considerations that you would want to make?

19 A Well, I think I just got through discussing them.

20 Q How would you compare Brunswick to another
21 nuclear power plant someplace else?

22 A When you ask how, be a little clearer if you could,
23 as to just what you mean by that question.

24 Q Would it be the amount of LERs?

25 A Well, it would be all the various things that you

1 look at in establishing excellence of performance.

pp2

2 We have a book of standards that we measure against and
3 those standards are looked at monthly and they are standards
4 that in varying degrees, are looked at by most companies.
5 And when we are exceeding these to a level that puts us out
6 in front of the industry, then that is considered to be good
7 operations.

8 And not until.

9 Q And what is the name of this book?

10 A Performance -- I can't tell you the exact
11 terminology.

12 But anyway, it's a family of curves that cover all
13 aspects of the operations of our facilities.

14 Q And what are some of the aspects of the operation?

15 A While we look at capacity factors, we look at
16 availabilities, we look at our ALARA program against what
17 goes, what we have established as being appropriate, based
18 on the work that is to be carried out at the facilities.
19 We look at the square footage of contaminated areas, we look
20 at radwaste that is being shipped whether or not we are
21 improving or meeting our goals on radwaste.

22 We look at exposure levels. We look at the heat rate
23 on the plants.

24 A (Witness Elleman) Radioactivity is released in
25 gaseous form and radioactivity is released in water form,

pp3

1 cubic feet and radioactive waste submitted for disposal.

2 There's a range of parameters that are looked at.

3 Q And then roughly once a month you sit down and
4 compare what has happened at the plant as opposed to these
5 standards?

6 A (Witness Utley) Well, this information is
7 compiled and submitted on a monthly basis. They are looked
8 at daily by the people at the plant.

9 Q Does the book also have a compilation of the rest of
10 the industry that you can make comparisons to?

11 A We do make comparisons with the industry in
12 appropriate categories. We get a report from the NRC, what
13 we term as a Gray Book which in turn publishes some of the
14 information that is covered in the use publications.

15 In addition, there is information in regard to some of
16 the other categories that I mentioned. And then if we have
17 areas that we are concerned about we will put out a survey
18 of our own to establish what has transpired in some of the
19 situations.

20 Q And that would be comparable for Brunswick, it
21 would be comparable boiling water reactors?

22 A This is done for all our nuclear operations.

23 Q In your latest analysis of comparing Brunswick
24 to the industry as a whole, where does Brunswick stack up?

25 A Well, you can't say in those general terms and

pp4

1 make any kind of comparison that is very meaningful. I
2 would say certainly Brunswick is not operating at the capacity
3 factors that we expect as we move through these major
4 modifications. However, in looking at the operation of
5 Brunswick 1, to date we are running about -- or maybe for
6 the year to date we are running about -- around 83 percent
7 capacity factor. And this is significantly above the
8 industry average.

9 However, if you look at the lifetime record of that
10 unit, it is not where we want it.

11 The Brunswick 2 unit last year probably went into the --
12 well, from the period January year to date to October we had
13 a capacity factor of about 69 percent for that period of time.
14 Which again, is significantly above the industry average.

15 Again we are not pleased at the level of performance of
16 Brunswick at this time. But I am telling you that it is
17 improving significantly and we do have a program to not only
18 get it up to the industry average but to move it ahead of
19 the industry average.

20 And I will make reference to the Robinson plant.

21 That plant has operated since 1971 and the performance
22 of that plant has been above industry average through its
23 lifetime.

24 I have not looked at the most recent figures since we
25 have been down for this steam generator changeout. But I would

pp5

1 suspect that it is still slightly above the industry average
2 even though we have gotten through a significant outage period
3 to changeout these main steam generators. This plant will
4 come back in service this year and it will be operating at
5 a power level higher than we have been able to operate in
6 the past. And we will be carrying loads at a level that is
7 above loads we have been able to carry in the past.

8 And we are expecting capacity factors that are going to
9 be above 80 percent which is certainly above the industry
10 average.

11 JUDGE KELLEY: Excuse me, just for clarity, when
12 you use the term industry average, is this a precise number
13 that Edison Electric or somebody files and puts out once a
14 year, once a month, or what?

15 MR. UTLEY: The NRC publishes this information,
16 quarterly. The Gray Book.

17 MR. BANKS: It's on a monthly basis.

18 JUDGE KELLEY: The Gray Book is --

19 MR. UTLEY: It indicates the capacity factor
20 level averages for all plants.

21 JUDGE KELLEY: So it's an NRC number?

22 MR. UTLEY: Yes, sir.

23 JUDGE KELLEY: Which they compile based on data
24 from the industry?

25 MR. UTLEY: That's correct.

PP 6

1 JUDGE KELLEY: Thank you.

2 MR. UTLEY: Continuing that conversation on
3 Robinson, I would also like to highlight the fact that the
4 significant operation or the good operations that we have
5 had at this plant is a design that matches to a great extent,
6 the Harris design, which is a Westinghouse pressurized water
7 reactor. So we would anticipate that we are going to have
8 some excellent operations on the Harris plant once we are
9 able to get it in service.

10 BY MR. RUNKLE:

11 Q I have some more specific questions on capacity
12 factors but I was going to wait and address them to
13 Mr. Dietz and Mr. Morgan from Robinson.

14 A (Witness Utley) I'm sure they will be qualified
15 and capable of talking about them in any detail you like.

16 Q And also to Mr. Howe and Mr. Bailey about the
17 Brunswick plant.

18 A Yes, sir. But they can review it much better
19 than I can because they are associated with the day to day
20 activities. They had been directly involved and a part of
21 and principally responsible for the improvements that we
22 have been able to accomplish.

23 Q I recall some of your testimony from the '79
24 remand hearings that that was the same comment you made
25 back then, was that after the modifications capacity would

pp7

1 be better, do you recall that statement?

2 A I'm sure that I don't recall precisely what I
3 said. I would not be surprised if that is not in the
4 testimony.

5 But again, I go back and remind you to think about what
6 I've covered here. But I have discussed where we were, where
7 we are and the reasons for the low periods that we
8 experienced in '80, '81 and '82. And the improvements that
9 we now see as the result of the changes and actions that were
10 taken by management of Carolina Power & Light.

11 Q But to state the question a different way, isn't
12 that the same line that you were giving back in '79 that
13 after modifications there would be a great improvement?

14 A I certainly would have expected to have said that
15 if I didn't. And the basis for it was looking at the
16 conditions that were known at that time and looking at the
17 tremendous escalation in regulations that took place
18 between 1968 and 1979. They were astronomical. At that time,
19 and as I recall the testimony, we could not foresee how these
20 regulations could continue to be escalated bringing on
21 added changes in work requiring additional people,
22 additional talent and so forth. Recognizing that we had
23 a significant increase in our forces during that period
24 of time.

25 And then shortly after those hearings we experienced

pp8

1 the Three Mile Island accident and then flowing out of that
2 was just a tremendous amount of regulations that just
3 brought about chaos to some extent in regard to trying to
4 comply with all that was coming out. And I think if you
5 go back and look at exactly what transpired, I think
6 you'll see that the testimony was completely valid. Taking
7 into account the things that have transpired that I've
8 described from '79 up to the present time.

9 Q Did the regulatory changes after the Three Mile
10 Island accident -- did they hit the Brunswick plant harder
11 than the other plants in the industry?

12 A Well, you have to -- that's a hard question to
13 answer really because it all depends on how these things
14 happen to come together that required certain actions at
15 certain times. It also had to do with how the management
16 of the companies proceed in regard to trying to immediately
17 comply with the regulations flowing out of Three Mile
18 Island.

19 And you have to analyze all those things to say it
20 was worse at Brunswick or was it as bad as Brunswick versus
21 some other location.

22 If you look at the situation at Brunswick and you look
23 at the modifications that were required and you look at
24 the manpower required and you look at the number of
25 construction workers required to be working in restricted

pp 9

1 areas, if you look at that now from a hindsight position
2 I think it would have been appropriate for management to
3 have taken the much harder position in regard to what
4 pace we proceeded to improve those modifications. And
5 how many people are you capable of managing properly under
6 those circumstances as you proceed through those modifications.

7 And I think the program would have been scheduled
8 on a different basis than we did under the existing
9 circumstances.

10 But you've got to realize that anybody can manage from
11 a hindsight position. The manager is a person that has to
12 make his decisions based on the existing conditions that
13 prevail versus whatever foresight and information he might
14 have.

15 Q But based on your hindsight sitting in that chair
16 today, would you have speeded up or slowed down the
17 modification timetable?

18 A We would have certainly controlled it in a way
19 that would have permitted a lot of the things that took place
20 to take place. And I think some of my testimony in 1979
21 tended to indicate this.

22 Q In the Three Mile Island post-regulatory changes,
23 did they hit Brunswick harder than other boiling water
24 reactors?

25 A I think I've been through that explanation. In

pp 10

1 regard to the affects of the regulations flowing out of
2 Three Mile Island, you have to take each individual
3 situation and look at what the conditions were that prevailed.
4 And I cannot sit here and tell you that Brunswick was hit
5 the worst in the industry. All I can do is sit here and
6 tell you that the magnitude of the work that was brought
7 about was over and beyond what should have been carried out
8 during that timeframe, looking at it from hindsight.

9 Q Were there more regulatory requirements imposed
10 on Brunswick during this time?

11 A I would not say there were more regulations
12 imposed per se. Regulations apply to all industry as they
13 are published. I will say as you fail to comply with these
14 regulations it tends to increase to some degree or level the
15 procedures and whatnot that you are required to comply with.

16 The level of procedures versus some plant that has
17 never had any problems.

18 Q When did you begin to have responsibility for the
19 Brunswick plant?

20 A I have had responsibility for the Brunswick plant
21 since it went in operation.

22 Q And when was that?

23 A Brunswick Unit 2 went commercial in December of '75
24 and Brunswick 1 was commercial in April of '77.

25 Q And what was your specific responsibility for the

pp 11

1 Brunswick plant at that time period from 1979 to 1982?

End #14

2 A I was manager of power supply which had the
3 responsibility for the operation of all generation including
4 nuclear as well as system operations, transmission substation
5 design as well as fuel procurement.

6 Q And did they separate -- when the CP&L separate
7 the fossil from the nuclear production?

8 A They separated the fossil from the nuclear in
9 late '79, as I recall.

10 Q And you were responsible for both fossil and
11 nuclear at that time?

12 A Yes, I was, and continue to be. But there was a
13 corporate office set up over the nuclear generation and there
14 was a department head set up over the fossil generation that
15 reported to me.

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Q And who did you report to at that time?

A I reported to Mr. J.A. Jones.

Q And what was his position at that time?

A At that time as I recall he was a senior vice-president. He later became executive vice-president, then was vice chairman.

Q And when did he retire from CP&L?

A He retired from CP&L at the age of 65 in September 1982.

Q And who took his position as executive vice-president?

A A man by the name of E.E. Utley.

Q And of course the responsibilities have changed since 1982, have they not?

Your responsibilities now are different from J.A. Jones in 1982, aren't they?

A No.

Q When was the latest reorganization of your management, when would that have occurred?

A We've got some discussion here at the table in regard to whether Mr. Jones also had customer service.

It's my view that Mr. Jones did not have customer service in 1982. If you go back prior to that, he did have.

Q And when was the latest reorganization of the corporate management that resulted in the corporate nuclear

agb/agb2

1 organization that we've talked about earlier today.

2 A. Where we've set up people, that is, officers
3 -- in two cases a department head and in the third case
4 over our nuclear sites?

5 Q Yes.

6 A. If you recall in my testimony we set the
7 Brunswick site up under a corporate officer in 1982. Following
8 that we set up site managers at our Robinson and Harris
9 sites in 1983.

10 Q And who was the executive vice-president at
11 the time, you or J.A. Jones, when they set up the project
12 director at the Brunswick plant?

13 A. Ed Utley was executive vice-president at that
14 time.

15 Q So what was J.A. Jones' responsibility in the
16 reorganization?

17 A. The reorganization didn't involve Mr. Jones.

18 Q He was retired by that time?

19 A. He was, at that time -- which was -- as I recall
20 the official date of that was September of '82 and that was
21 the date at which Mr. Jones retired.

22 Q So he may have had some responsibility for making
23 those changes, did he not?

24 A. Oh absolutely, he was involved in those changes
25 and played a part in the discussions that took place, sure.

agb/agb3

1 Q And Mr. Smith did also?

2 A Yes, sir, along with other people

3 Q And who were some of the other people?

4 A The management organization, as reformulated.

5 The organization as it developed.

6 Q During the time that you made this latest
7 management restructuring, did you rely on any experts or
8 outside consultants?

9 A Oh I sure did, I relied on a lot of sources of
10 information. I looked at what other companies were doing.
11 I looked at the way many companies were organized. I talked
12 to the managers and I also talked with consultants. And
13 anybody that I felt could give me guidance, help, I certainly
14 called on them.

15 Q Who were some of the consultants you relied on?

16 A We talked with Theodore Barry and Associates
17 for one company. We also had some discussions with Management
18 Analysis out in California.

19 Q In your prefile testimony you talk about the
20 MAC report. Would that be the --

21 A That's a separate issue as it relates to the
22 reorganization. The MAC report is a report that was developed
23 as a result of us asking MAC to come in and assess the
24 effectiveness of our quality assurance/quality control program.

25 Q But they were not involved in the actual

agb/agb4 1 restructuring in 1982 and 1983?

2 A. Not the actual restructuring.

3 By "come in" in regard to MAC as it related to
4 that is I talked to some of the key people, management people
5 in MAC in regard to organizations and how organizations should
6 be structured to give us the most effective results.

7 Q. But you did not retain them to issue a formal
8 report?

9 A. I did not.

10 Q. Did Theodore Barry and Associates issue a formal
11 report?

12 A. They did not issue a formal report, no.

13 Q. And what other companies did you look at?

14 A. I looked at what was being done at Public Service
15 of New Jersey, I looked at Duke Power's organization, I
16 looked at TVA's, as I recall.

17 I looked at a number of companies that had more
18 than one nuclear plant in that that was our situation.
19 There is considerable difference, in our organization, for
20 one operating plant versus more than one plant.

21 Q. And you stated earlier that CP&L is unique in
22 having only one layer of management between a project director
23 of a nuclear plant and a chief executive officer, did you
24 not?

25 A. I think my statement there was that I was not

agb/agb5

1 aware of another plant where there was only one level of
2 management between the plant and the chief executive officer,
3 chairman of the board.

4 Q And one of the continuing problems at Brunswick
5 was blockage of the RHR heat exchangers due to the shell
6 buildup.

7 Did you stay on top of that issue as it arose?

8 A Well when you say "stay on top of that issue,"
9 I did crawl up into that heat exchanger and looked at that
10 warped divider plate and had some discussions about the
11 situation.

12 Q Were you aware of the problem and the resolution
13 of that problem?

14 A I was involved, yes, through the evolution
15 and what transpired to the degree that was necessary at
16 my level of management.

17 Q And when did that problem initially begin?

18 A I can't cite the date that that problem
19 developed.

20 I'll cover it in this way and if you've still
21 got a question we'll listen to it:

22 As I recall the situation, it was necessary
23 to take out the chlorination system because of work that
24 was taking place on the intake. This was a safety measure
25 primarily to protect the people that was working in the intake

agb/agb6

1 area. That's the point at which the circulating water
2 comes into the plant.

3 And during that period of time there was a
4 growth in this inlet pipe that developed that turned out
5 to plug -- they turned loose at that point in time and
6 plugged the heat exchangers.

7 Q And this growth was from clams or --

8 A They was shells. Clams, oysters or whatever.

9 Q And were you aware that when you took off the
10 filtration system that this problem may arise -- chlorination
11 system?

12 A There was certainly the knowledge that this problem
13 could develop, however in the reviews that were made of the
14 situation at that time it was not recognized that the shell
15 buildup was to the level that it would turn loose and
16 block this heat exchanger as it turned out to do.

17 I would be the first to admit in looking at it
18 from hindsight that that was a situation where we didn't do
19 really as good a job as we could have in regard to managing
20 and controlling the growth of that material inside those
21 circulating water pipes.

22 That again goes back to some of the other things
23 that I've already gone through in regard to management control.

24 Q As to the RHR heat exchangers, one of the
25 problems with these clams would be that the system could not

agb/agb7

1 provide adequate cooling water and that could cause damage
2 to the core and a loss of coolant accident, is it not?

3 A It certainly had an effect on the amount of flow
4 to the heat exchangers, certainly.

5 Q I'd like to read you just one sentence and see
6 if you agree with this:

7 "Failure to provide adequate
8 cooling could result in severe damage to
9 the safety-related components or systems
10 designed to safely shut down the plant and
11 to mitigate the consequences of a major
12 occurrence such as a loss of coolant
13 accident, LOCA."

14 MR. BARTH: As a point of order, your Honor,
15 might we have a revelation of where this gem has come
16 from and the context in which it is here?

17 JUDGE KELLEY: Yes.

18 Could you identify the document?

19 MR. RUNKLE: Certainly. It was an abnormal
20 occurrence that was published in the Federal Register,
21 Volume 47, Number 97, Wednesday May 19th, 1982, pages 2165-3
22 to 2165-6. And that is the first full paragraph on 2165-4.

23 MRS. FLYNN: Does Mr. Runkle have copies of
24 this for the witness and counsel?

25 MR. RUNKLE: No, I don't.

agb/agb8

1 JUDGE KELLEY: I think we should make that
2 ground rule pretty clear. I don't think it's reasonable for
3 you to be reading from some document if other counsel can't
4 look at it at the same time.

5 Now this is not one of the documents that
6 you handed out for possible use as an exhibit, right,
7 this is just for use in cross?

8 MR. RUNKLE: Yes.

9 JUDGE KELLEY: But even if this is just for use
10 in cross they're entitled to see what you're reading from
11 for the witness.

12 MR. RUNKLE: If I have a note to myself and I
13 read a sentence and ask him if he agrees with it or not,
14 does it make any difference where the source is from?

15 MRS. FLYNN: I think --

16 JUDGE KELLEY: I would assume that it would.
17 You're reading a single sentence out of context and then
18 you're saying What do you think of that? He doesn't know
19 where it came from.

20 If there was an objection made, and I assume
21 there would be, I would sustain it.

22 If you want to pursue it, why don't you show it
23 to counsel and then perhaps the witness could look at it.

24 MR. RUNKLE: I'll be glad to make the copy of it
25 and have it available in the morning.

agb/agb9

1 JUDGE KELLEY: Let's do it that way then instead.
2 We'll pass that now with the understanding that we'll have
3 a copy of it in the morning and then you can pursue it in
4 the morning.

5 MR. RUNKLE: I will ask the same question.

6 BY MR. RUNKLE:

7 Q Mr. Utley, let me refer you to page six of your
8 prefile testimony.

9 endAGB15
10 AGB16 flws

AGB16
ebl

1 Question 4 states, does it not, please describe
2 the philosophy and commitment of CP&L's management with
3 regard to the safe construction and operation of its nuclear
4 plants?

5 Could you read the first sentence of your answer?

6 A Yes, sir.

7 "Carolina Power and Light Company's
8 management has always recognized the proper safety
9 practices and strict adherence to all applicable
10 governmental regulations and CP&L procedures as
11 necessary for safe operation of its nuclear plants."

12 MR. BARTH: Your Honor, I would voice an objection
13 but the witness answered so quickly that the objection may
14 not be well founded. It is the second time we have had the
15 witness simply read his testimony over again. The testimony
16 is in evidence. The document speaks for itself. And as I
17 did with my own witnesses, why bring it up?

18 If you want these people to read their own
19 testimony, I'm quite willing to have them reread it, but
20 simply to sit and reread it is duplicative. It adds nothing.
21 It is already in evidence.

22 I have no objection to him referring to Question
23 4 and Answer 4 on page 6 of his testimony and asking him a
24 question about it, but to ask him to reread it all the time
25 I think is an objectionable practice, your Honor.

AGB/eb2

1 JUDGE KELLEY: I agree as to certainly anything
2 long. It is in evidence; we can all read and so can the
3 witness.

4 On the other hand if it is a sentence for context,
5 sometimes it is helpful. I'm not sure where this is going.
6 Your general observation I think about rereading testimony
7 I think is well taken, but I don't think we want to rule out
8 ever quoting a sentence for the sake of context.

9 Why don't we just go ahead in this case and get
10 back some sort of reaction?

11 BY MR. RUNKLE:

12 Q Sir, it is in your prefiled testimony, but do you
13 personally adhere to this management philosophy?

14 A Utterly. I think we do to our best efforts, and
15 I think the things I have described going back to '79 and
16 bringing it up to date is a demonstration of our intent to
17 comply with what we say.

18 And I would further say that as far as I know,
19 there is no situation where our plants have been operated in
20 a way that endangers the public health and safety of our
21 community.

22 Q And you have been with CP&L since the start of
23 their nuclear operations, have you not?

24 A I have been with CP&L since Easter Monday in 1981 --
25 I mean '51.

AGB/eb3

1 Q So that was from the initial start of the Robinson
2 plant, and also through the Brunswick plants, and now into
3 the future, into the Harris plant?

4 A That's correct.

5 Q And have you strictly adhered to all applicable
6 governmental regulations in that time?

7 A It has been our intent to adhere to all
8 regulations.

9 Q And all CP&L procedures necessary for safe
10 operation?

11 A It has been our intent that not only I comply but
12 all the people under my direction and responsibility comply.

13 Q As far as you're aware, that would also be
14 Sherwood Smith and the Board of Directors, would it not?

15 A Mr. Smith would certainly support that position
16 and would not look on my performance as being up to his
17 expectations if we didn't comply with them.

18 MR. RUNKLE: I do not have any questions from
19 here, it's about closing time for me.

20 JUDGE KELLEY: It's just about 5:30. If this
21 is a good stopping place for you, why don't we stop?

22 Just a word or two more: Now as we understand
23 it, counsel, probably the most important issue for us to
24 decide this evening so we can tell you tomorrow is this
25 dispute over the exhibits and how they're to be handled.

flwseb3
AGB/agbl

1
2 There is the separate issue of the witnesses
3 for 65. Do you think you could tell us tomorrow as to
4 those witnesses who no longer work for you, whether you've
5 got their address or -- Do you know now -- or tomorrow?

6 MR. BAXTER: I have part of that now.

7 JUDGE KELLEY: Fine. Go ahead.

8 MR. BAXTER: We do have last known addresses for
9 employees who have terminated at the site if, for no other
10 reason, to mail their last check.

11 JUDGE KELLEY: Right.

12 MR. BAXTER: In one case the date is as long ago
13 as 1978; others are more recent. We just have no way of
14 knowing if these people are in North Carolina.

15 JUDGE KELLEY: I understand.

16 MR. BAXTER: All of the addresses are in North
17 Carolina. But whether anybody is there any more, we just
18 can't say.

19 We had previously Mr. Eddleman's commitment,
20 endorsed by the Board, that to protect the privacy of the
21 employees those addresses would not be revealed publicly.
22 So if the Board were going to issue subpoenas, we would
23 provide the addresses to the Board.

24 JUDGE KELLEY: Okay. We're talking of the
25 eight people on Mr. Eddleman's priority list for 65 for
some -- how many of these people have terminated, can you

agb2

1 tell me that?

2 MR. EDDLEMAN: I believe it's two, Judge, is that
3 correct?

4 MR. BAXTER: It was Mountcastle and Troxel.

5 JUDGE KELLEY: Troxel?

6 MR. BAXTER: Yes.

7 JUDGE KELLEY: And the other six are still working
8 for CP&L?

9 MR. BAXTER: Or Daniels at the site.

10 JUDGE KELLEY: Or Daniels at the site. Okay. That's
11 all I need to know. We'll try to give a ruling on that
12 tomorrow then also.

13 If you don't mind, if you would remind me if
14 there is something else of that nature for us which we
15 should be ruling on by tomorrow? Nothing that I know of.

16 (No response.)

17 Okay. Anything else that needs to be brought up
18 before we quit?

19 (No response.)

20 JUDGE KELLEY: Again you can leave materials here,
21 I think it will be safe, but there's no guarantee. We'll
22 adjourn and resume at 9:00 tomorrow morning.

23 (Whereupon, at 5:30 p.m., the hearing in the above-
24 entitled matter was recessed, to reconvene at 9:00 a.m.,
25 the following day.)

This is to certify that the attached proceedings before the
UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING:

Carolina Power and Light Company
and North Carolina Eastern Municipal
Power Agency

(Shearon Harris Nuclear Power Plant
Units 1 and 2)

DOCKET NO.: 50-400 OL and 50-401

PLACE: Raleigh, North Carolina

DATE: 5 September 1984

were held as herein appears, and that this is the original
transcript thereof for the file of the United States Nuclear
Regulatory Commission.

(Sigt) *William R. Bloom / Anne G. Bloom*
(TYPED) William R. Bloom & Anne G. Bloom

Official Reporter

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