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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

RELATED CORRESPONDENCE

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USNRC

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OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

April 1, 1985

Robert Guild, Esq.  
P.O. Box 12097  
Charleston, S.C. 29412

In the Matter of  
Carolina Power and Light Company and  
North Carolina Eastern Municipal Power Agency  
(Shearon Harris Nuclear Power Plant, Units 1 and 2)  
Docket Nos. 50-400 and 50-401 o c

Re: Deposition of Applicants' Employees

Dear Mr. Guild:

In accord with the Licensing Board's Order of March 21, 1985 appearing at transcript page 7513 we are enclosing a draft order authorizing depositions of Applicants' employees by tape recorder. When you send the three draft orders to the Board will you please send us a copy of your draft and the Applicants' draft.

We have not yet received your Notice of Appearance as required by 10 C.F.R. § 2.713(b). It must have been misplaced in the mail system. Will you please send me a copy of your Notice of Appearance.

Sincerely,

Charles A. Barth  
Counsel for NRC Staff

Enclosure: As stated

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PDR ADOCK 05000400  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

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

DRAFT PREPARED  
BY NRC STAFF

In the Matter of	)	Docket Nos. 50-400-0L
	)	50-401-0L
CAROLINA POWER AND LIGHT COMPANY AND	)	(ASLBP No. 82-472-03 0L)
NORTH CAROLINA EASTERN MUNICIPAL	)	
POWER AGENCY	)	
(Shearon Harris Nuclear Power Plant,	)	April , 1985
Units 1 and 2)	)	

MEMORANDUM AND ORDER  
(Authorizing Deposition By Tape Recording  
And Establishing Procedures Therefore)

Upon the Motion of Intervenor Eddleman and pursuant to the authority vested in the Chairman by 10 C.F.R. § 2.718(d), (e) and (f) and 10 C.F.R. §2.740(c) and (f)(2), the Chairman authorizes Intervenor Eddleman to take the oral depositions of Applicants' employees, E.E. Utley, M.A. McDuffie, M.R. Banks, J.M. Johnson, A. Fuller and R.E. Lumsden by means of tape recording, subject to the conditions which follow.

(1) The time and place of the depositions shall be agreed to by Mr. Eddleman and Applicants. The Board, upon motion, shall establish the place and time of the depositions if the parties fail to agree.

(2) Mr. Eddleman shall provide a person (Reporter) authorized to administer oaths by the laws of the United States or the State of North Carolina.

(3) The Reporter shall swear in witnesses and attest to the reliability and trustworthiness of the recordation of the deposition.

(4) The Reporter shall operate and monitor the recording equipment during the entire depositions.

(5) The Reporter and only the Reporter will prepare any necessary transcripts of the deposition and attest to their authenticity.

(6) Two tape recorders, operated by the Reporter will be used to produce two original tape recordings of the entire depositions.

(7) The equipment used must be of sufficient quality to produce an accurate and trustworthy record.

(8) The speakers shall identify themselves prior to speaking.

(9) At the end of the depositions, it shall be stated: "This is the end of the deposition," and the date and time will be announced.

(10) At the end of the deposition, the Reporter will label one (1) of the tape recordings "work copy" and one (1) of the tape recordings "reference copy." The Reporter will review each tape recording to assure that it is an accurate recordation of the entire deposition.

(11) The "reference copy" is to be placed in an envelope, sealed, and mailed to the Chairman.

(12) The work copy may be used to make typed transcriptions of such portions as Mr. Eddleman or the Applicants may want. Any party who wants to use any part of the deposition in this proceeding shall have that portion typed and submitted to the deponent, the Board and all the parties at least 30 days prior to use in this proceeding. Typing shall be by the Reporter.

(13) Any objections to the accuracy of typed transcriptions of the deposition shall be made to the Board within ten (10) days after the transcriptions are filed with the Board.

(14) The Board shall rule on any such objections by reviewing the original reference copy tape recording of the depositions in its custody, or by such other means as it deems appropriate.

(15) The typed transcriptions of the depositions, as filed with the Board by the parties or as modified by the Board after objections have been filed and ruled on, shall constitute the official record of the depositions for the purposes of this proceeding and any subsequent hearing or appeals.

(16) Transcriptions may be used in this proceeding upon the same basis as though the original depositions had been stenographically recorded.

This Board is mindful that the NRC rules do not provide for non-stenographic deposition as does Rule 30(b)(4) of the Rules of Civil Procedure for the District Courts of the United States. We are mindful of the Advisory Committee's admonition for trustworthiness and reliability. We have considered the administrative problems in working with taped depositions. We have balanced the interests of the parties and concluded as ordered above. <sup>1/</sup>

THE ATOMIC SAFETY AND LICENSING  
BOARD

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James L. Kelley, Chairman  
ADMINISTRATIVE JUDGE

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<sup>1/</sup> There are Licensing Board decisions which would not permit using a FRCP rule which has no counterpart in the NRC rules. See In the Matter of Detroit Edison Company, et al., (Enrico Fermi Atomic Power Plant, Unit 2) LBP-78-37, 8 NRC 575, 580 and 581 (1978); In the Matter of General Electric Company, (Vallecitos Nuclear Center, General Electric Test Reactor), LBP-79-33, 8 NRC 461, 465 (1978). There are Federal District courts which have imposed more stringent and less stringent protections than here ordered.