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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'85 APR 17 AIO:59

Before the Administrative Judges:

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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED APR 17 1985

<u>In the Matter of</u>)	Docket No. 50-400 OL
)	
CAROLINA POWER & LIGHT COMPANY)	
and NORTH CAROLINA EASTERN)	(ASLBP No.)
MUNICIPAL POWER AGENCY)	
)	
(Shearon Harris Nuclear Power)	April <u>16</u> , 1985
Plant))	

MEMORANDUM AND ORDER
(Authorizing Tape Recorded Depositions)

Upon motion of Intervenor Wells Eddleman the Board hereby authorizes the oral depositions of the following employees of Applicant Carolina Power & Light Company, which are to be recorded by non-stenographic means: E. E. Utley, M. A. McDuffie, H. R. Banks, J. M. Johnson, A. Fuller, and R. E. Lumsden. These depositions are for the purpose of discovery on Eddleman Contention 41G. The depositions are to be conducted at such times and places as are agreed upon by the parties, provided that all depositions shall be taken prior to May 10, 1985.

Mr. Eddleman seeks authorization to record these depositions by non-stenographic means as would be permitted under the

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Federal Rules of Civil Procedure, Rule 30(b)(4), namely by audio tape recording. Tr. 7453-59 (Conference call March 21, 1985). Such tape recorded depositions are authorized, subject to the following conditions:

1. The deposition shall be taken before any officer authorized to administer oaths by the laws of the United States or of the State of North Carolina. 10 C.F.R. §2.740a(c). For purposes of non-stenographically recorded depositions, Mr. Eddleman may apply to the Board to have the independent operator of audio equipment, who will record the deposition, be authorized to administer oaths and to serve as the officer for purposes of the deposition.

2. The deposition shall be recorded by a person knowledgeable in the use of audio equipment and independent of Mr. Eddleman^{1/} with an audio tape recorder and related equipment of sufficient quality and capability to record accurately the statements made by the deponents and counsel during a deposition.

3. Mr. Eddleman shall take the following actions to safeguard the accuracy and trustworthiness of the deposition record:

^{1/} F. R. Civ. P. 28(c) provides: "No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action."

A. The independent operator of the audio equipment shall produce and make available from the original tape of the deposition a duplicate tape for any other party upon request and at that party's expense. The original tape shall promptly thereafter be forwarded to the Chairman of this Board by such operator.

B. If Mr. Eddleman intends to seek the use in this proceeding of any portion of the recorded testimony in any manner (including support for pleadings or cross-examination at a hearing), he shall have transcription of the recorded testimony prepared and shall forward a copy of such transcription to Applicants in order that the deponent may review the transcript for accuracy, make necessary corrections, and certify that the transcription is a true and correct record of his deposition or portion thereof. The transcription shall be forwarded at least fifteen (15) days in advance of the date such testimony will be used, except that a lesser time may be agreed upon or ordered by the Board for good cause shown.

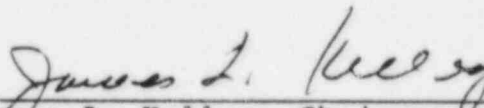
C. Transcriptions may be used in this proceeding upon the same basis as though the original depositions had been stenographically recorded.

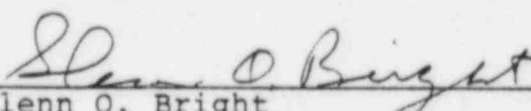
D. Nothing herein shall affect the right of any party independently to transcribe or to record the deposition by any means.

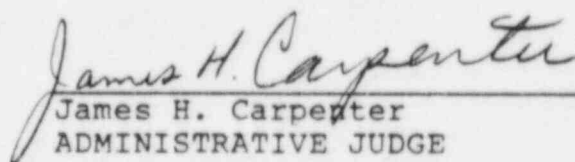
4. During the conduct of the deposition speakers shall identify themselves whenever necessary to ensure clarity of the record.

5. The tapes or any other recording of the depositions shall be used by the parties only for purposes of this proceeding and shall not be released to any third party for any purpose unrelated to the conduct of this proceeding.

THE ATOMIC SAFETY AND LICENSING BOARD


James L. Kelley, Chairman
ADMINISTRATIVE JUDGE


Glenn O. Bright
ADMINISTRATIVE JUDGE


James H. Carpenter
ADMINISTRATIVE JUDGE

Bethesda, Maryland
April 16, 1985