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December 10, 1984

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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)
)
(Shearon Harris Nuclear Power Plant))

Docket No. 50-400 OL

APPLICANTS' MOTION FOR SUMMARY DISPOSITION
OF CCNC CONTENTION 8

I. INTRODUCTION

Pursuant to 10 C.F.R. §2.749 of the Nuclear Regulatory Commission's Rules of Practice, Applicants Carolina Power & Light Company and North Carolina Eastern Municipal Power Agency hereby move the Atomic Safety and Licensing Board for summary disposition in Applicants' favor of Conservation Council of North Carolina (CCNC) Contention 8. For the reasons explained herein, Applicants respectfully submit there is no genuine issue as to any fact material to this contention and that Applicants are entitled to a decision in their favor on this contention as a matter of law.

In support of this motion, Applicants rely upon the attached Affidavit of Dayne H. Brown in Support of Applicants' Motion for Summary Disposition of CCNC Contention 8, Applicants' Statement of Material Facts as to Which There is No Genuine Issue to be Heard on CCNC Contention 8, Applicants' Memorandum of Law in Support of Motions for Summary Disposition on Emergency Planning Contentions, and the pleadings and discovery filed in this proceeding regarding CCNC Contention 8.

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II. BACKGROUND

On February 28, 1984, Applicants served a copy of the North Carolina Emergency Response Plan in Support of the Shearon Harris Nuclear Power Plant (February 1984) (the "ERP" or "off-site emergency plan") on the parties to this proceeding.¹ In response to the ERP, intervenor CCNC proffered a number of proposed contentions including CCNC Contention 8. As originally proposed, CCNC Contention 8 challenged the staffing level and training of the staff of the Radiation Protection Section (RPS) of the North Carolina Department of Human Resources, and contained a number of specific allegations regarding the adequacy of the RPS staff. At the May 2, 1984 Prehearing Conference, the Licensing Board admitted the first two sentences of the proposed contention, but rejected the remainder as "really evidence and proof and not the basic concept of the contention." T. 996-97 (May 2, 1984). Thus, CCNC Contention 8 as admitted states:

10 C.F.R. 50.47(b)(1) mandates that "each principal response organization has staff to respond and to augment its initial response on a continuous basis" (emphasis added) while (b)(15) requires that "[e]mergency response training is provided to those who may be called on to assist in an emergency." The Radiation Protection Section (RPS) of the NC Department of Human Resources, one of the principal state agencies, does not have adequate staff and does not have adequately trained staff.

Pursuant to the schedule agreed upon at the prehearing conference, discovery requests on CCNC Contention 8 were due by August 9, 1984, and responses were due on August 30, 1984. Applicants filed one set of interrogatories regarding this contention on intervenor CCNC on August 9, 1984, and CCNC responded on August 31, 1984. CCNC has not made any discovery requests on this contention. Thus, discovery on the contention is now completed.

¹Revision 1 of the ERP was issued in September 1984. A copy was served on the Board and the parties on October 3, 1984.

III. APPLICABLE LAW

The well defined standards applicable to motions for summary disposition under 10 C.F.R. §2.749 are discussed in detail in Applicants' Memorandum of Law in Support of Motions for Summary Disposition on Emergency Planning Contentions, filed in this proceeding on October 8, 1984. Applicants rely upon the discussion therein, which is incorporated by reference, and upon the discussion herein regarding the application of those standards to CCNC Contention 8.

The applicable standards in the Commission's emergency planning rule relating to the staffing and training of emergency response organizations state:

(b) The onsite and, except as provided in paragraph (d) of this section, off-site emergency response plans for nuclear power reactors must meet the following standards:

(1) Primary responsibilities for emergency response by the nuclear facility licensee and by State and local organizations within the Emergency Planning Zones have been assigned, the emergency responsibilities of the various supporting organizations have been specifically established, and each principal response organization has staff to respond and to augment its initial response on a continuous basis.

* * *

(15) Radiological emergency response training is provided to those who may be called on to assist in an emergency.

10 C.F.R. §50.47(b)(1) and (15). More detailed evaluation criteria regarding the responsibilities of response organizations are contained in section II.C. of NUREG-0654, pp. 40-41, and criteria for radiological emergency response training are set forth at section II.O., pp. 75-77.

IV. ARGUMENT

A. There is No Basis for Alleging that the RPS Staff is Inadequate, Either in Terms of Numbers or Training.

CCNC Contention 8 challenges the adequacy of the RPS Staff to respond to an accident at the Shearon Harris Nuclear Power Plant. It alleges that RPS does not have an adequate number of staff members and that the staff is not trained to fulfill its responsibilities in the event of an accident. As can be seen from the accompanying Affidavit of Dayne H. Brown, Chief of RPS, there is no present basis for these allegations. Indeed, Mr. Brown affirms that RPS will have an adequate number of staff to fulfill its responsibilities and that the staff will have completed extensive training before the Harris Plant is operational. On the basis of Mr. Brown's Affidavit, it is clear that the number of staff members available to respond to an accident and their training accord fully with the standards set forth in the Commission's emergency planning rule.

RPS is the state agency with primary responsibility for activities related to monitoring radiation releases. ERP at Part 1, III.D.1. With respect to the required staffing level, approximately twenty-four or twenty-five persons will be needed to perform RPS functions in response to an accident at the Harris Plant. RPS could activate its emergency response even if all of these persons are not immediately available. Of those twenty-four or twenty-five positions, at least four positions could be filled by clerical personnel who may not have health physics training. Brown Affidavit, ¶¶ 4-5. RPS currently has a staff of seventeen professional personnel and 3 or 4 clerical personnel who would be available to provide support during such an accident. Two additional professional positions are expected to be filled before the Harris Plant begins commercial operation. Brown Affidavit, ¶ 6. The North Carolina Division of Emergency Management will provide 5 experienced staff members to augment the RPS staff. Thus, there would be twenty-seven or twenty-eight persons available to fill the twenty-four or twenty-five positions. Brown Affidavit, ¶ 8. Approximately thirty additional personnel

will be available through the TOREV (Team of Radiological Emergency Volunteers) organized by the North Carolina Chapter of the Health Physics Society. As detailed in the Brown Affidavit, the TOREV team is comprised of highly qualified and experienced persons in the health physics field. Brown Affidavit, ¶ 9. Additional personnel will be available through the Southern Mutual Radiological Assistance Plan and from federal agencies such as NRC and FEMA. Brown Affidavit, ¶ 9.

As explained in the Brown Affidavit, RPS personnel will be available on an as-needed basis during the first twenty-four hours after an emergency or after an accident at the Harris Plant. Utilizing personnel from DEM and local TOREV volunteers, there will be an adequate staff to perform all important functions during this period and to permit a shift rotation in most positions. All persons will be able to take breaks while other staff members provide backup support. Subsequently, RPS personnel will be supplemented by persons from other organizations as described above. Brown Affidavit, ¶ 10.

In order to enhance its capabilities to respond to a radiological emergency, RPS has recently added an emergency response planner to its staff. As a staff member with full-time responsibility for coordination of RPS' activities in support of emergency response plans for nuclear power plants, he has added greatly to RPS' capabilities. Brown Affidavit, ¶ 7.

Both RPS' own personnel resources and the availability of resources from numerous other organizations confirm there is no genuine issue of material fact as to the ability of RPS to provide adequate numbers of persons during an accident situation. Accordingly, that portion of CCNC Contention 8 is appropriate for summary disposition.

Similarly, the Brown Affidavit describes the training that RPS personnel have received and the experience that they have gained during exercises at other nuclear plants. RPS personnel have received considerable training in areas related to emergency preparedness in support of nuclear power plants. Brown Affidavit, ¶ 12. This training is summarized in Attachment D to the Brown Affidavit. Eleven RPS personnel have just completed a CP&L overview course designed to familiarize them with the Harris emergency plans. Brown Affidavit, ¶ 12. The personnel who will support the RPS staff (including those from DEM and TOREV) are also trained and experienced in radiological emergency response. Brown Affidavit, ¶¶ 8-9. In addition, CP&L has committed to providing RPS personnel with access to extensive radiological emergency response training courses which will further enhance their ability to respond to an emergency at the Harris Plant. The general subject areas of this training are listed in Attachment E to the Brown Affidavit. CP&L has also agreed to provide direct assistance to the RPS in development of internal training courses, including providing training materials, consultation and speakers on plant-specific topics. Brown Affidavit, ¶ 13. It is clear that the emergency response training that RPS personnel have received or will receive is, taken as a whole, extremely comprehensive and adequate to meet the requirements of NRC's emergency planning rule. There is no genuine issue as to whether this training meets the provisions of 10 C.F.R. §50.47(b)(15).

B. There Is No Genuine Issue of Material Fact as to CCNC Contention 8.

In view of the representations by Dayne H. Brown, Chief of RPS, that both the staffing level and training of his Section will be adequate to respond to an accident at the Harris Plant, there is no genuine issue of material fact as to the substance of CCNC Contention 8. The allegations in CCNC Contention 8 are without basis, and Applicants are entitled to a decision in their favor as a matter of law. Accordingly, Applicants have met all the standards for obtaining summary disposition on this Contention. No useful purpose would be served by adjudicating this contention further.

V. CONCLUSION

Based on the foregoing, Applicants respectfully request that their Motion for Summary Disposition of CCNC Contention 8 be granted.

This 10th day of December 1984.

Respectfully submitted,

Dale E. Hollar

Dale E. Hollar, Esq.
Associate General Counsel
Carolina Power & Light Company
Post Office Box 1551
Raleigh, North Carolina 27602
(919) 836-8161

Attorneys for Applicants:

Thomas A. Baxter, P.C.
Delissa A. Ridgway, Esq.
Shaw, Pittman, Potts & Trowbridge
1800 M Street, N.W.
Washington, D.C. 20036
(202) 822-1000

Richard E. Jones, Esq.
Samantha Francis Flynn, Esq.
H. Hill Carrow, Esq.
Carolina Power & Light Company
Post Office Box 1551
Raleigh, North Carolina 27602
(919) 836-6517