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JOHN H. O'NEILL, JR., P. C.

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March 1, 1985

Robert Guild, Esquire  
2135 1/2 Devine Street  
Columbia, South Carolina 29205

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

Dear Mr. Guild:

This letter summarizes Applicants' position with respect to the Notice of Depositions by Wells Eddleman (undated) which was hand-served on Richard E. Jones by Mr. Eddleman on February 21, 1985, and memorializes a series of conversations regarding this matter.

The Notice of Depositions designates six employees of Carolina Power & Light Company ("CP&L") to be deposed commencing Wednesday, February 27, 1985. The Notice of Depositions proposes that the depositions be "recorded by non-stenographic means by the Intervenor." CP&L was asked to provide "one of its employees who is a Notary to administer the oaths to the deponents."

On February 22, 1985, I telephoned Mr. Eddleman and informed him that the Notice of Depositions was inconsistent with the Commission's rules and did not provide reasonable notice (particularly in light of the scheduled deposition of Mr. Chan Van Vo which was noticed for February 26, 1985). We informally discussed possible approaches to resolve this problem. Mr. Eddleman committed to get back to me on Monday, February 25th.

I met briefly with Mr. Eddleman on February 25th in CP&L's offices in Raleigh. He stated that he had not had an opportunity to talk to "his people" about our proposals to resolve the dispute on depositions. He did agree that the depositions could commence later in the week if we could come to agreement on the manner by which they would be recorded. We also agreed

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that Mr. Utley and Mr. McDuffie could be made available the following week due to their unavailability this week. Mr. Eddleman committed to get back to me during the Chan Van Vo deposition scheduled for the next day.

Mr. Eddleman did not attend the Chan Van Vo deposition. You stated at the deposition that you were representing Mr. Eddleman's interests, as well as those of Mr. Chan Van Vo and the Government Accountability Project. You stated during a break in the depositions that you would be conducting the depositions for Mr. Eddleman but you were not fully apprised of the discussions that Mr. Eddleman and I had previously had on this matter. We agreed to attempt to resolve the matter the following day.

On Wednesday, February 27th, Mr. Eddleman telephoned me to state that you would be representing him only with respect to discovery matters involving Eddleman Contention 41-G and that we should continue to deal with him on all other matters. You telephoned later that morning and we discussed the pending matter of the proposed depositions. Applicants offered to have the depositions of Messrs. Banks, Lumsden, Johnson and Fuller taken on February 28th and March 1st (within the designated discovery period established by the Board) and to make Mr. Utley and Mr. McDuffie available for depositions at a mutually convenient date the following week. Applicants insisted that the depositions be conducted pursuant to the Commission's rules, if Mr. Eddleman intended to make use of information obtained during the depositions in any future proceedings. You renewed your request for tape recorded depositions with no restrictions on their use. I suggested that we bring the matter to the Board Chairman for resolution that afternoon but you were unavailable. I tried to set up a conference call for Thursday, February 28th to put the issue to the Board Chairman, but he was unavailable. Judge Kelley was willing to hear the issue by conference call on Friday, March 1st at 10:00 a.m.

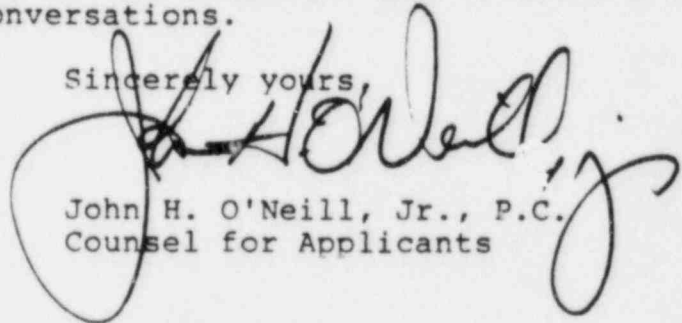
On Thursday, February 28th, you telephoned me to discuss the scheduled conference call for Friday. You stated that, in a brief telephone call with Judge Kelley, he had indicated his intention to rule on Mr. Eddleman's "Motion for Reconsideration of Order served 1-15-85 (41-G)" within a few days of receipt of the Staff's position. You indicated your preference to have the deposition dispute heard, if at all, after a decision on the broader issue. You noted that you would want to ask questions relating to broader issues than Applicants' interpretation of the issue presently admitted for litigation. I indicated that the two matters were certainly severable and that we were prepared to put the issue of non-stenographically recorded depositions to the Board on Friday. I stated

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Applicants' position that the burden of going forward on this discovery dispute was on Mr. Eddleman. I further indicated that Applicants would make the argument that Mr. Eddleman had been untimely in not noticing depositions until February 21st, one week before the end of the discovery period, and while Applicants had been willing to attempt to accommodate Mr. Eddleman within the discovery period, we would oppose any extension of the discovery period for depositions simply because Mr. Eddleman had raised this issue at the eleventh hour.

You indicated that you would inform the Board that the conference call was cancelled and that Mr. Eddleman would decide whether to pursue the issue after receiving the Board's ruling on the Motion for Reconsideration. I agree to serve you with future pleadings related to Eddleman 41-G (within the scope of your representation of Mr. Eddleman) and to write a letter memorializing our conversations.

Sincerely yours,



John H. O'Neill, Jr., P.C.  
Counsel for Applicants

JO'N/dy

cc: Judge James L. Kelley, Esquire  
Charles Barth, Esquire  
Wells Eddleman  
Docketing and Service Section