

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC
June 11, 1984 *

'84 * [unclear] date
OK'd by
Board
& Staff
on 6/12/84

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

In the Matter of

CAROLINA POWER AND LIGHT CO. et al.
(Shearon Harris Nuclear Power Plant,
Unit 1)

Docket 50-400 OL

ASLBP No. 82-468-01
OL

Motion to Compel Discovery from NRC Staff re Joint
Contention I

As noted in the prehearing conference early in May,
Staff and Joint Intervenors were negotiating over Staff's objections
and answers re Joint Contention I (Management Incapability).
Because of no further progress on the matters below, this motion
is now filed, ten days from the 30 May breakdown of negotiations
(as described in the accompanying certificate of negotiations)
counting the fact that June 9 is a Saturday.

Re interrogatory 17, answers to interrogatories 2 thru 4 and
to 15 say or imply analysis has been done, but none is given. We
are entitled to know what analysis has been done (what AISI has been
done).

Re #22, the answer does not appear consistent with answers to
2 thru 4 above.

Re #24, we think the answer is Yes and the Staff should either
say so or give a better explanation of the "answer" provided.

Re #141, the answer given does not say which reports other
than the SALPs relate to management, though the question is asked.
We think we are entitled to an answer.

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Re #144, we believe the answer is Yes and that Staff almost must know some answer to this question beyond that provided elsewhere. Since we contend CP&L management is inadequate, it is surely relevant to know who or what the Staff believes is inadequate nuclear management.

Re #145 answer, the question encompasses who the Staff member(s) are (is) who conducted these interviews, and identification of documents concerning the interviews. From the answer it is not clear if all the followups are identified in the answer; they should be.

Re #147 answer, no documents are identified, though the interrogatory asks for identification of all documents re the agenda of each such meeting.

Re #149, we believe that the management of the Zimmer plant, that of GPU Nuclear, etc., come within at least the scope of part (bb) of this question. Staff is being evasive about relevant information. In the 1979 remand hearings, a poll of Region II inspectors was brought into the hearings, re CP&L management adequacy. The same sort of poll would be relevant here, especially if there are inspectors who think CP&L management is not, or may not be, adequate to assure the safe operation of the Harris plant.

Re #150, we may be wrong, but we find it hard to believe that NRC Staff has made no studies on the weaknesses or strengths of management of nuclear utilities or plants. We find it hard to believe also that no analysis or study of CP&L management has been done, in light of the questions that have been raised about CP&L management in the past, e.g. 1979 remand hearings. If Staff has a working definition of good management (e.g. as in response to #143 that Staff agreed 5/31/84 to make) then it should be something Staff can articulate.

Re #151, if the Staff has since pulled information related to this interrogatory together, we believe they are required to supply it.

Concerning #152, we believe this is a dodge of the question, which is directed to the Staff, not just to Region II. We suggest asking Ed Reis of OELD who was Staff counsel in the 1979 remand, or checking with OELD personnel.

Concerning #153, it is not clear whether the people referred to have been asked this question. We think they should be asked. The answer is surely relevant to management capability of CP&L.

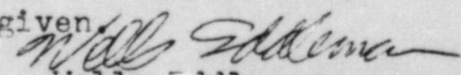
Concerning #154, we may be wrong, but we find it hard to believe that NRC Staff does not analyze the events reported in LERs, or has no documents beyond the LERs themselves which relate to their analysis of reportable accidents, problems, etc. We are quite willing to have this answered just for CP&L's plants if that is an easier way to answer it.

Concerning #156, we are not sure the Staff is familiar with the statements in the 1979 remand case to the effect that the problems at Brunswick were basically taken care of. We think they should take interest in these questions if they have not already. We think we are entitled to an answer if and when the Staff does.

Re #156 objection, we think the comparative performance of other nuclear utilities is relevant. Ditto re #157 objection. We want to know in #157 if any other utility has improperly disposed of low level radioactive waste in the way CP&L did, or a similar way. Surely it is relevant if CP&L has committed mistakes no other licensee has, which are outstandingly bad and/or only discovered by luck, not licensee or NRC diligence.

Note re objection to revised interrogatory #1: We aren't pressing for an answer to #1, but if Staff's reviewers do understand the subject matter they are reviewing, then the objections to 143 ... 157 as noted above don't make much sense, and answers could be given.

For Joint Intervenors,


Wells Middleman

June 11, 1984

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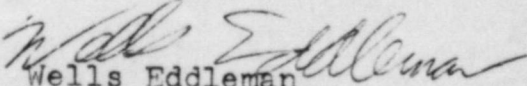
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Certificate of Negotiations

Charles Barth of NRC Staff and Wells Eddleman for Joint
Intervenors conducted informal negotiations, with minimal progress,
ending in an apparent breakdown on 30 May 1984. However, on 31
May the Staff agreed to supply additional information related to
Interrogatory 143, which was accepted for Joint Intervenors.
If additional progress results before the motion to compel
is filed, it will be noted.

I affirm the above is true.

11 June 1984


Wells Eddleman