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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

In the Matter of:)
Carolina Power and Light Company)
and North Carolina Eastern)
Municipal Power Agency)
)
(Shearon Marris Nuclear Power)
Plant))

Docket No. 50-400 OL

PETITION FOR COMMISSION REVIEW PURSUANT TO 10 CFR 2.786

I.

The Coalition for Alternatives to Shearon Marris (CASM), Calvin Ragan, et.al., and Patricia Miriello, petition the Commission for review of an Order and Memorandum by the Atomic Safety and Licensing Appeals Board issued July 11, 1986, which denied CASM's Petition to Intervene. CASM and Wells Eddleman, pro se., petition the Commission for review of the same ASLAB issuance which denied CASM and Eddleman's Motion to Stay Immediate Effectiveness in the Shearon Marris Licensing Proceeding. This petition is properly before the Commission pursuant to 10 CFR 2.786.

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II.

SUMMARY OF DECISION FROM WHICH REVIEW IS SOUGHT: On July 11, 1986, the Atomic Safety Licensing and Appeal Board denied CASM's petition to intervene filed on June 9, 1986. CASM seeks, on the basis of three rights to standing, to intervene in the NRC licensing proceedings for the Shearon Harris Nuclear Power Plant (SHNPP). CASM is a popularly based, public interest organization concerned about the health and safety of its members and those persons residing around the plant. As is clearly developed in the following argument, CASM is a proper party to these proceedings and should be afforded party status. Standing to intervene is based upon representation of those persons residing within the five mile zone. Representation of that group is based upon an affidavit by Calvin Ragan, et.al., who is a resident of the five mile zone, and who asserts that the interests of persons living within the five mile zone have not been adequately raised or represented during the licensing proceeding. CASM should also be afforded party status due to the contentions raised by Patricia Miriello, and her seeking CASM's representation of her interests. Ms. Miriello has raised a number of contentions with the ASLB and the Office of Investigations. IO investigation reports are still pending. As demonstrated in these and other arguments CASM and the parties and persons it represents should be afforded party status. Where CASM is granted party status, the Motion to Stay will be properly before the Commission (at least with respect to CASM, Mr. Eddelman is already a party to these proceedings). The ASLAB denied CASM and Eddelman's Motion to Stay. In light of the Chatham County pull-out, and the resolution of July 7, 1986, there still remains a Emergency Management issue on which to base a motion to stay. Further, the

the petitioners contentions establish a strong likelihood of prevailing on the merits, that there will be irreparable injury, and that the public interest lies with the petitioners.

III.

STANDARD FOR COMMISSION REVIEW: Commission review is pursuant to 10 CFR 2.786 (4)(1), which states: ...a petition for review will not be granted unless it appears that the case involves an important matter that could significantly affect the environment, the public health or safety, or otherwise raises important public policy questions. With respect to matters of fact, no review will be granted unless the ASLAB has resolved the question in a clearly erroneous manner. The standard for review looks to the following four factors to determine whether a petition for review is sufficient to prompt Commission review of the matters contained therein:

1. Whether there is a significant effect upon the environment
2. Whether there is a significant risk to public health and safety
3. Whether there are important public policy questions raised
4. whether there are questions of fact that were resolved incorrectly

IV

We begin discussion of these factors by looking to one example of an issue of fact which was resolved incorrectly below. In 1984 the ASLB rejected certain contentions concerning genetic damage and cancer caused by radiation. In rejecting the contentions of Eddleman, the Board stated, ...the motion for summary disposition...is granted, notwithstanding the existence of disputes over genuine issues

of fact...(the Board continued)...We recognize, of course, that our ruling represents a departure from a general principle of summary disposition law and that the remedy is not available where material issues of fact remain. In the Matter of Carolina Power and Light, 19 NRC 837, 839 (1984). A thorough review of the record will demonstrate that other instances where the Board departed from general principles of law, even where there were disputes as to material facts. CASH is reviewing the record and will file a complete summary of contested material facts which were not adequately adjudicated below upon review by the Commission.

V.

On July 7, 1986, the Chatham County Commissioners passed a resolution which stated that the County needed to strengthen its ability to respond to radiological emergencies and cited numerous areas of necessary improvement from the plan tested by FEMA in May of 1985. In particular the Commissioners noted the following necessary improvements: additional personnel and training to reduce the confusion about duties under the plan; the necessity for clearly written standard and operation procedures for emergency personnel; the identification of the needs for specialized equipment and training at the Chatham County Hospital for dealing with radiological emergencies; and, the creation of a Disaster Preparedness Committee to advise the Commission on Emergency Planning. Having passed this resolution demonstrates that Chatham County recognizes the inadequacy of the Emergency Management Plan and the test of that plan in May of 1985. CASH as an intervenor, and a principle player in negotiations concerning Chatham's emergency planning, will fully develop the record on review of this petition by the NRC Commission. The Chatham County issue is far from resolved, and as such is the basis for a stay pending the complete analysis by the Commission of the new facts, and subsequent implementation

and testing of the plan.

VI.

Two events in June and July of 1986, demonstrate a failure in the applicants emergency notification system. This failure presents a severe question as to the health and safety of the residents of the five mile zone. There were two failures of the applicants siren system during the past two months and a subsequent breakdown of information dissemination procedures for persons within the ten mile zone. Both incidences were the result of sirens sounding which is the initial signal for evacuation and the imminence of a radiological disaster. Both alarm soundings were beyond the control and accountability of the applicants; citizens attempted to secure information from the plant, local authorities, and even the applicants media spokesperson but to no avail. It took one person in excess of six hours to determine the nature of the siren. The applicants ability to give adequate notice of a radiological emergency, and the confidence of the citizens will place in such warnings in the future has been significantly diminished. The applicant had no control over the siren mechanisms---and to add to the confusion---failed to inform the public in a timely manner as to the nature of the alarm. Petitioner is concerned about the effect of the false alarms and believes that such is merely an indication of the problems with applicants emergency notification system. (NOTE: fuel is being stored at SHNPP, that information is common knowledge; it is not unreasonable to assume that persons hearing the alarm, and being unable to confirm or verify the existence of an emergency would lead to considerable anxiety and emotional stress. CASK is presently reviewing the incident and will upon review by the Commission, brief these facts and the effect upon Psychological stress as cognizable under NEPA)(SEE:, CASK Petition for Institution

Proceedings pursuant to 10 CFR 2.206, July 2, 1986, arguments and affidavits).

VII

On January 1, 1986, Patrica Miriello, a former employee at the applicants Shearon Harris and Brunswick Plant, alleged that there were incidences of falsification of radiation exposure records and questionable practices with practices related to health physics. The NRC Office of Investigation has had documented evidence of these contentions since September of 1985, and has yet to do a personal interview with the complainant, and has not completed its formal investigation. The assertions, when substantiated, will result in substantial evidence that the applicant participated in and made materially false statements to the NRC. The applicants request for an operation license could be revoked, suspended, or modified for having made material false statements of fact required of the applicant. Ms. Miriello has made other contentions and has provided the NRC with documentation of allegedly forged documents concerning coolant line welds. These issues, in sum or in part, amount to a substantial flaw in the decision making process by the Board, and further implicate the applicant. The IO decision is still pending and the results may implicate the applicants quality assurance program as well as the radiation protection program for employees of the plants. CASI will brief this issue upon review by the Commission.

VIII

Finally, there continues to be the unresolved issue concerning the evacuation of the Lake Jordan Recreation Area in the event of a radiological emergency. The bulk of the lake area lies within the ten mile zone. Provision for

evacuation of the thousands of summer persons recreating on the lake were not addressed in the FEMA Emergency Preparedness Exercise of May 1985. It is vital to health and safety that remedial provisions be made in the EMP prior to the loading and low-power testing of the SMPP. It is equally imperative that there be an exercise of the remedial plan prior to operation, and that there be reasonable assurances that reasonable protective measures can and will be taken in the event of a radiological emergency. Petitioners note that there is mandatory authority on point concerning the issue of summer recreational areas, and such authority has not been asserted in this proceeding. Petitioners request that the Commission's review include an opportunity to address this issue, particularly with respect to the stay issue in light of recent case law developments.

VIII

Petitioners wish to acknowledge that CASH was organized in April of 1986, and that it did not take part in the license proceeding. Notice to intervene was given some four years ago. Many CASH members were either underage or not residents of this state when such notice was given. To argue that such persons were 'sleeping on their rights' or 'awaiting on the sideline prior to asserting their right to intervene', is absurd. This is an opportunity for the Commission to review the relative merits of this case. CASH has been instrumental in developing the emergency management planning for Chatham County, and with other substantive issues arising in concern about the Shearon Harris Plant. CASH is rich in energy and commitment to advocating the interests of its members and those within the surrounding community, and at this stage of the proceeding has raised numerous sub-


stantive issues on the basis of unresolved issues and facts, and issues which arise due to new fact which occurred subsequent to the Board's decision. The decision of the Licensing Board is flawed. There are significant issues to be reviewed by the Commission and the resolution of these issues is essential to the health, safety, and well being of the members of CASH and those residing around the SMPP.

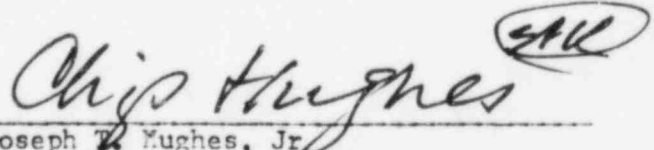
IV


CASH, et.al. petitions the Commission for review:

1. and to allow review of issues raised in the petition for review, the petitioners motion to stay, and the petitioners intervention pleading and,
2. to allow the opportunity to present arguments concerning legitimate questions raised herein, particularly with respect to issues which have developed subsequent to the ASLE decision, and,
3. to issue an order specifying the issues to be reviewed and direct the appropriate briefs to be filed, and to direct that oral arguments be held on those issues.

Respectfully submitted to the Commission, this 30th Day of July 1986.


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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of Carolina Power)
and Light Company and Northern)
Carolina Eastern Municipal)
Power Agency)
(Shearon Morris Nuclear
Power Plant)

Doclet No. 50-400

CERTIFICATE OF SERVICE

I hereby certify that copies of Petitioners 'Petition for Commission Review pursuant to 10 CFR 2.786 were served this day by deposit in the U.S. Mail, first class, postage prepaid, to the other parties on the attached service list.


Steven P. Katz

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

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