

ORIGINAL

UNITED STATES
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

DOCKET NO: 50-400 OL
50-401 OL

CAROLINA POWER & LIGHT COMPANY
NORTH CAROLINA EASTERN
MUNICIPAL POWER AGENCY

(Shearon Harris Nuclear Power
Plant)

PREHEARING CONFERENCE

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U. S. Nuclear Regulatory Commission

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Washington, D. C. 20555

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P R O C E E D I N G S

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2 JUDGE KELLEY: This is Judge Kelley. I'm here
3 again with Judges Bright and Carpenter, and we are on the
4 record as a continuation of yesterday's discussion.

5 The first item will be a continuation of
6 yesterday's discussion, and then we're going to pass on to
7 the order of witness and other matters that need to be
8 discussed regarding next week's hearing.

9 Just as a matter of background, yesterday we
10 heard argument from the parties on whether or not several
11 different subpoenas should issue, including a subpoena to
12 Dr. Bassiouni. And we decided in his case that, based on
13 what we had heard from a parties, that a subpoena should
14 issue, and I did mail a subpoena to Dr. Bassiouni after
15 yesterday's call.

16 Subsequent to that, Mr. Eddleman, I believe,
17 tried to reach Dr. Bassiouni and had not been successful but
18 left a message to call either me or him. Dr. Bassiouni did
19 call me in the course of the afternoon. --rather, I called
20 him and he called me back; but, in any event, we had a
21 telephone conversation, and I told him we had, based on what
22 we heard yesterday, issued a subpoena. And I asked him
23 whether he personally had objection to his being subpoenaed,
24 and he told me that he did.

25 I did not, except very generally, hear those

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1 objections. That, of course, is a matter for the Board.
2 The objection of a person being subpoenaed is to be heard on
3 notice to the applicant for the subpoena: that's
4 Mr. Eddleman. And it just seemed to me, particularly since
5 we had a call lined up this morning, in view of the time
6 restrictions we're operating under, the most feasible way to
7 proceed would be to invite Dr. Bassiouni to join this
8 conference call this morning and to state his objections to
9 the subpoena from his standpoint.

10 I might just note that although we heard from all
11 the parties yesterday, although Dr. Bassiouni has been and
12 may still be a client of CP&L, I didn't understand that
13 Ms. Ridgeway or any other lawyer were representing
14 Dr. Bassiouni in a personal capacity, and, therefore, it
15 seemed fair that he be able to present his own views on the
16 matter.

17 I might just add that in a couple of respects
18 insofar as he has problems from a convenience standpoint,
19 prior commitments, we, of course, didn't know about that and
20 didn't get to it. He's in the best position to speak to
21 that.

22 Dr. Bassiouni, just recapping yesterday briefly,
23 as I understood what you said, you had objections based on
24 essentially two grounds: one, the extent of your knowledge
25 of the matters that are in issue here and, secondly, your

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1 own schedule and convenience. There may be others you may
2 wish to voice. But at this point would you state your
3 objections to being subpoenaed?

4 DR. BASSIOUNI: Sure.

5 I guess it's the time constraint, it's really
6 giving me no time whatsoever. There's a lot of things have
7 been going on that I'm not aware of as far as the case
8 progress in the last few weeks and few months. It looks to
9 me that to be a witness in the case I should really be able
10 to read all this record. And it looks to me now that
11 there's really no time whatsoever to really sit down and
12 read the record and also meet my commitments that I have. I
13 have a very, very heavy schedule, and it looks to me that
14 it's very, very impossible for me to testify in the case.

15 JUDGE KELLEY: On the question of schedule, could
16 you be a little more specific in terms of your time
17 commitments, bearing in mind that we're talking about a
18 hearing that is going to take place next Tuesday and quite
19 likely into Wednesday, so let's say a two-day hearing?

20 What is your current situation, and what are your
21 commitments? Do you have anything that would directly
22 conflict with that?

23 DR. BASSIOUNI: Yes; basically for these two
24 specific days I have a meeting that I should be attending,
25 and it's really impossible to reschedule this meeting.

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1 As far as my workload, I have really very, very
2 heavy commitments for next week, the week after, for the
3 next four weeks. Really, if I move any of these it's going
4 to cause me and my company substantial damage.

5 That's one aspect.

6 The other aspect: for me to really-- I guess
7 CP&L, as far as I understand, is still my client, and in
8 order to give any testimony, I think to be fair to them and
9 to myself, I'd have to go through everything that has been
10 happening; I'd have to sit down and study all these
11 details. And I think that would take time.

12 The time needed to study all these records, the
13 time needed for me to perform my functions and for my
14 commitments, it looks like really there's no way I can
15 really be available.

16 JUDGE KELLEY: On that latter point, I understood
17 you had been under contract to CP&L -- I don't know the
18 details specifically, but you've been under contract. But
19 it was my understanding that if you were to appear you
20 wouldn't be appearing on behalf of CP&L but, rather, you
21 would be appearing independently.

22 DR. BASSIOUNI: I would still be appearing on
23 behalf of CP&L.

24 JUDGE KELLEY: You might prefer that,
25 Dr. Bassiouni, but it may not be that way: that's the point

WRBwrb 1 I'm making. It's Mr. Eddleman who subpoenaed you.

2 DR. BASSIOUNI: Exactly.

3 JUDGE KELLEY: Okay.

4 Do you have the Board order that ordered the
5 reopening of this case, our order of January 16th?

6 DR. BASSIOUNI: I am not sure. I have been
7 getting stuff in the mail, but I'm not sure if I have that
8 specific order or not. But, if I do have it, it will be in
9 the files here, and I'm not sure if I do have it or not.
10 But I do know that the case will be reopened.

11 JUDGE KELLEY: Well, why don't I turned to
12 Mr. Eddleman at this point.

13 Mr. Eddleman, do you want to ask question, or
14 comment? As you wish.

15 MR. EDDLEMAN: Well, Judge, if Dr. Bassiouni
16 really doesn't feel like he can do it I'm willing to
17 withdraw the subpoena request.

18 I still think, I should say on the record, that
19 the evidence he could give is important and significant.
20 But I don't want to cause him any damage.

21 JUDGE KELLEY: Well, then, under the
22 circumstances, are you withdrawing your request?

23 MR. EDDLEMAN: Yes.

24 JUDGE KELLEY: Okay.

25 I think that, then, settles that point.

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Dr. Bassiouni, we appreciate your joining us this

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morning.

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DR. BASSIOUNI: Thank you very much, sir.

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JUDGE KELLEY: You can sign off on the call, if

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you wish; I don't think that will disconnect everybody else.

6

DR. BASSIOUNI: Okay. Thank you.

7

JUDGE KELLEY: Thank you very much.

8

DR. BASSIOUNI: Bye-bye.

9

JUDGE KELLEY: Thank you.

10

I guess, then, we can move right to the question

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of order of the witnesses.

12

MR. BAXTER: Could I make just one comment about

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what we've just discussed?

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JUDGE KELLEY: Yes.

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MR. BAXTER: I just want to state for the record

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that we stated last November in response to a previous

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request for a subpoena for Dr. Bassiouni that CP&L did not

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consider there to be any contractual bar to him honoring the

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subpoena, and that we have absolutely no influence on

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Dr. Bassiouni, and have not so represented.

21

JUDGE KELLEY: Yes; we recall that part of your

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pleading, and understood him to be the subject of a request

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from Mr. Eddleman as a professional expert and not as

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someone under contract to you.

25

MR. BAXTER: Thank you.

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1 JUDGE KELLEY: Any other comment by anyone else
2 before we go on to the order of witnesses?

3 (No response.)

4 JUDGE KELLEY: Okay.

5 The order of witness, then. Mr. Baxter, do you
6 want to begin on that? What would you propose?

7 MR. BAXTER: We would propose to begin with
8 Mr. Keast on his February 21 filing. And we would think
9 that the most logical order would be to have Dr. Krider go
10 next, since he covers some of the same items. And then
11 third would be our panel on the tone alert radio.

12 JUDGE KELLEY: What about the possibility of
13 simply putting Keast and Krider on at the same time? Is
14 there any benefit in that, might there be?

15 That, of course, goes to the Staff and the other
16 parties, too. Can you give us your view?

17 MR. BAXTER: I have no objection to that if Judge
18 Carpenter and the Board would find it easier to develop the
19 record by being able to talk to both of them at the same
20 time.

21 JUDGE CARPENTER: Mr. Baxter, some of the
22 questions that we think the answer to may help the record
23 could benefit by sequential response from both Mr. Keast and
24 Dr. Krider. We could do it step-wise, but I think the
25 record would read more smoothly if any particular issue were

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1 talked about in one spot in the record.

2 So I think presenting them as a panel and getting
3 their responses to the questions raised in our order would
4 be the most efficient.

5 MR. BAXTER: That would be fine with us.

6 JUDGE KELLEY: Why don't we just pursue that
7 question with the other parties before going on to anything
8 else.

9 Mr. Eddleman, how does that strike you?

10 MR. EDDLEMAN: Judge, I don't have any objection
11 to having them appear together. It's kind of unusual, I
12 guess, for witnesses for two different parties to be on one
13 panel, but I don't have any problem with it; except that I
14 would like to be able to direct my questions to one or the
15 other of them specifically.

16 JUDGE KELLEY: Oh, yes, you could; sure. The
17 other one might have a followup comment, but you can choose
18 who you're directing the question to.

19 Okay?

20 MR. EDDLEMAN: Well, I guess okay.

21 JUDGE KELLEY: Well, is that okay?

22 MR. EDDLEMAN: I really have a little problem
23 with letting another one follow up on a comment on.... I
24 guess, reading the record, it may be better. But I'd rather
25 examine them individually from my point of view. But if the

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1 Board agrees and everybody else agrees, I guess I'll go
2 along with it.

3 JUDGE KELLEY: Okay. It seems to me this sort of
4 thing hasn't caused us a problem in the past. It seems to
5 me if you had a series of related questions that you wanted
6 to put to one, then you can do, and then the other one can
7 chime in when you got to the end of a line; something like
8 that. But I don't think it will pose a practical problem.

9 Staff?

10 MR. ROCHLIS: We would have no objection, your
11 Honor.

12 JUDGE KELLEY: Ms. Sanford?

13 MS. SANFORD: No problem.

14 JUDGE KELLEY: Okay. So we would begin, then,
15 with Keast and Krider as a panel.

16 Do you want to pick up again, Mr. Baxter? Where
17 do we go from there?

18 MR. BAXTER: Yes. Our next piece of evidence
19 would be the panel testimony filed on February 18 of our
20 witnesses: Mr. Keast, Mr. Overman, Mr. Goodwin and
21 Mr. Joyner. Mr. Joyner, who is from the State Division of
22 Emergency Management, currently has a conflict for the 5th.
23 We'd like to be able to get him off the stand on the first
24 day. He only has one page in that panel testimony. We
25 would hope we could accommodate him.

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1 We would also be presenting, along with this
2 panel of four, Mr. Black who the Board decided yesterday
3 should appear, and we voluntarily agreed to produce him for
4 whatever questions by Mr. Eddleman.

5 JUDGE KELLEY: All right.

6 This is what you might call the Tone Alert Panel?

7 MR. BAXTER: Yes, sir.

8 JUDGE KELLEY: Were you planning on bringing a
9 tone alert radio with you?

10 MR. BAXTER: We can do that.

11 JUDGE KELLEY: That just plugs into the wall,
12 doesn't it?

13 MR. BAXTER: Yes, sir.

14 JUDGE KELLEY: Okay; thank you.

15 And then after that panel do you have other
16 witnesses, or is that your case?

17 MR. BAXTER: Unless we have need for rebuttal,
18 that's our case.

19 JUDGE KELLEY: Okay.

20 Then in the normal course the staff would come
21 next. But Dr. Krider will already have been on along with
22 Keast; isn't that right, Mr. Rochlis?

23 MR. ROCHLIS: Yes, your Honor.

24 JUDGE KELLEY: That's your only witness?

25 MR. ROCHLIS: That's correct.

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JUDGE KELLEY: Okay.

So would that then take us to Mr. Eddleman and his witness, Mr. Riley?

MS. MOORE: Yes, it would, your Honor.

JUDGE KELLEY: Mr. Eddleman, did you hear Mr. Baxter's order of his witnesses?

MR. EDDLEMAN: Yes.

JUDGE KELLEY: Okay. And then the staff would normally come next, but their witness, Krider, will already have been on. So that it seems to us that you would then come next with Mr. Riley.

MR. EDDLEMAN: I don't have any problem putting on Mr. Riley after their case is closed.

I'd like to get Mr. Black separate from the panel, though.

JUDGE KELLEY: Separate from the panel?

MR. EDDLEMAN: Yes; since I subpoenaed him.

MR. BAXTER: Judge Kelley, I really don't see what difference it makes to Mr. Eddleman. He's free to ask Mr. Black individual questions while he's sitting there. We have voluntarily produced him, and we think it would be most efficient for him to appear with the other members. We're presuming he's going to be testify on some of the same subjects.

JUDGE KELLEY: What do you lost by that

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1 procedure. Mr. Eddleman?

2 MR. EDDLEMAN: Well, I think that I then have to
3 do everything on my feet. In other words, if they say
4 something I've got to think immediately exactly what I want
5 to ask Mr. Black about. Whereas if I get him on separately
6 I'll have a little time to think about it. And I think it
7 would actually reduce the amount of cross time that I'll
8 take.

9 JUDGE KELLEY: Is this an issue the Board can
10 think about and tell you Tuesday?

11 MR. EDDLEMAN: That's fine with me.

12 JUDGE KELLEY: Do you need to know the answer at
13 this point? Mr. Baxter, can we just tell you Tuesday on
14 this?

15 MR. BAXTER: Yes, sir.

16 JUDGE KELLEY: Okay.

17 Now, Mr. Riley, is he your only witness at this
18 point?

19 MR. EDDLEMAN: Yes, sir, Judge. I mean, he and
20 Mr. Black.

21 JUDGE KELLEY: Yes; right.

22 MR. EDDLEMAN: I talked to Mr. Riley. He should
23 have, by this time, mailed me prefiled testimony which I
24 will get over to the applicant as quick as I can get it in
25 here. I'll get it to them Friday or Saturday.

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Mr. Riley could appear on the 5th. He would have some difficulty on the 4th.

JUDGE KELLEY: It does look like we'll go into the 5th, but we can't be sure.

MR. BAXTER: The applicants would prefer that he appear on the 5th so we have whatever time we can get to prepare cross-examination.

JUDGE KELLEY: Is that okay with the staff?

MR. ROCHLIS: No problem, your Honor.

MS. SANFORD: No problem.

JUDGE KELLEY: Well, why don't we count on Mr. Riley for the 5th?

MR. EDDLEMAN: I'll tell him.

JUDGE KELLEY: I want to just remind you, Mr. Eddleman, that whenever you drop something in the mail you're sort of taking a chance. You do have an obligation to have that served by Saturday noon.

MR. EDDLEMAN: I understand that, Judge. In fact, here in Durham when you pick up the telephone you're taking a chance, although it looks like we panned out this morning.

JUDGE KELLEY: Okay.

MR. HOLLAR: Judge Kelley, I have a logistical point on the issue of getting the testimony. We would like to have it delivered to my home address on Saturday, if it's

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1 going to be Saturday rather than Friday.

2 I understand that express mail does deliver on
3 Saturday, and that Mr. Eddleman should put on the envelope
4 that it is to be delivered by noon, in order to provide more
5 assurance that they'll get it there earlier in the day.

6 MR. EDDLEMAN: Judge, I may have given you a
7 misimpression. Mr. Riley has mailed this stuff to me. I
8 intend to deliver it by hand; although if Mr. Hollar wants
9 it delivered by hand to his home, I'll do that, all he's got
10 to do is tell me where he lives.

11 JUDGE KELLEY: Why don't you do that, Mr. Hollar?

12 MR. HOLLAR: Should we do that now?

13 JUDGE KELLEY: All right, go ahead.

14 MR. HOLLAR: Mr. Eddleman, it's 2306 Fairview
15 Road.

16 MR. EDDLEMAN: 2306 Fairview.

17 MR. HOLLAR: Right. Raleigh.

18 MR. EDDLEMAN: I don't know Raleigh well enough
19 to know exactly where that is. If I come in on I-40...

20 JUDGE KELLEY: Maybe you could call him later on
21 the directions; okay?

22 MR. EDDLEMAN: Okay.

23 MR. HOLLAR: Yes; I think that would be a good
24 idea.

25 JUDGE KELLEY: Okay.

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Does that then cover the question of order of witnesses, Mr. Baxter?

MR. BAXTER: Yes, sir.

JUDGE KELLEY: Okay.

Staff?

MR. ROCHLIS: Yes, your Honor.

JUDGE KELLEY: Mr. Eddleman?

MR. EDDLEMAN: As far as I know.

JUDGE KELLEY: Okay.

Anything else that ought to be raised now and resolved.

MR. BAXTER: At what time will the hearing begin on the 5th? Mr. Eddleman may want to tell Mr. Riley.

JUDGE KELLEY: Eight-thirty.

MR. BAXTER: That's all we have.

JUDGE KELLEY: Okay.

Anything else from the staff or FEMA?

MR. ROCHLIS: No, your Honor.

MS. MOORE: No, your Honor.

JUDGE KELLEY: Anything else, Mr. Eddleman?

MR. EDDLEMAN: I'm trying to think. It seems like there might have been.

Oh, yes, yes. Mr. Baxter called me earlier and said that Ms. Ridgeway had left a message for me on the 17th, I guess it must have been. I never received the

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1 message, but I have no doubt that what's described could
2 well have happened. So I wish to strike the comment in the
3 reply on ETX that I filed on the 18th about not having
4 gotten a response from Ms. Ridgeway.

5 I'd just like to get that on the record.

6 JUDGE KELLEY: Well, why don't you raise it again
7 on Tuesday during a break or something? We frankly don't
8 have those papers in front of us.

9 MR. EDDLEMAN: Goodness; mail service is getting
10 ridiculous. I see what you mean, Judge.

11 JUDGE KELLEY: I didn't say it wasn't here, I
12 said it wasn't on my desk.

13 MR. EDDLEMAN: Oh, I beg your pardon.

14 JUDGE KELLEY: If you want to bring this up
15 Tuesday, fine.

16 MR. EDDLEMAN: Fine.

17 JUDGE KELLEY: Ms. Sanford, anything else?

18 MS. SANFORD: No, sir.

19 JUDGE CARPENTER: Mr. Baxter, in Mr. Keast's
20 testimony he points out the principal difference between his
21 computational result and the Board's computational result
22 can be traced to whether or not one assumed people of ages
23 younger than 18 are "alertable." And he makes reference to
24 a 1980 census survey for the Harris EPZ. That data which he
25 refers to is not in evidence, so it's difficult for the

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1 Board to have any opinion about it, and, further, it would
2 be difficult for the Board perhaps to consider some
3 intermediate position for which he references
4 Dr. Nehnezajsa as finally taking the position that perhaps
5 age 12 or 13 might be more appropriate for a cut-off.

6 So I think it would be useful to get that data in
7 the record at this point in the proceeding, rather than
8 having to come back to it in the future.

9 JUDGE KELLEY: If there's nothing else from
10 anyone, we'll close on this call. And we'll see you next
11 Tuesday morning.

12 Thank you very much .

13 (Whereupon, at 10:31 a.m., the telephone
14 conference was concluded.)

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CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the UNITED STATES NUCLEAR REGULATORY COMMISSION in the matter of:

NAME OF PROCEEDING: CAROLINA POWER & LIGHT COMPANY
NORTH CAROLINA EASTERN MUNICIPAL
POWER AGENCY

(Shearon Harris Nuclear Power Plant)

DOCKET NO.: 50-400 OL 50-401 OL

PLACE: WASHINGTON, D. C.

DATE: THURSDAY, FEBRUARY 27, 1986

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission.

(sig) William R. Bloom
(TYPED)

WILLIAM R. BLOOM

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