

8/17/79

UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
 HOUSTON LIGHTING & POWER COMPANY
 (Allens Creek Nuclear Generating
 Station, Unit 1)

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Docket No. 50-466



NRC STAFF'S RESPONSE TO PETITION FOR
 LEAVE TO INTERVENE FILED BY RON WATERS

By letter dated August 6, 1979, Texas State Representative Ron Waters has clarified that his July 12, 1979 letter was intended as a petition for leave to intervene as a full party in the captioned proceeding. He alleges that he resides within 50 miles of the proposed plant and is concerned, inter alia, about releases of radiation from normal operation of the facility and the feasibility of evacuation in case of an accident.

10 CFR §2.714(a)(2) requires that a petitioner for leave to intervene set forth his or her interest in the proceeding and how such interest might be affected by the results thereof. In this regard, consideration is to be given to the nature of the petitioner's right to be made a party, the nature and extent of petitioner's property, financial or other interest in the proceeding and the possible effect on such interest of any order entered in the proceeding. 10 CFR §2.714(d). In addition, the petition must identify the specific aspects of the subject matter of the proceeding on which intervention is sought. 10 CFR §2.714(a)(2).

The Commission and Appeal Board have previously emphasized that judicial concepts of standing are controlling in determining whether a petitioner has satisfied

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the foregoing requirements for intervention as of right. Portland General Electric Company (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610, 613-614 (1976); Public Service Company of Oklahoma, et al. (Black Fox Station, Units 1 and 2), ALAB-397, 5 NRC 1143, 1144-1145. Specifically, a petitioner must show "injury in fact" (which has occurred or will probably result from the licensing of the facility) and that his or her alleged interest is "arguably within the zone of interest" protected by either the Atomic Energy Act or NEPA. Pebble Springs, supra.

The Appeal Board has recently held that an allegation of close proximity to a proposed facility is deemed enough, standing alone, to satisfy the interest requirements of 10 CFR §2.714. Virginia Electric Power Company (North Anna Nuclear Power Station, Units 1 and 2), ALAB-522, 9 NRC 54, 56 (January 26, 1979). Although no specific distance from a nuclear power plant has evolved from Commission decisions to define the outer boundary of the geographic "zone of interest," distances up to 50 miles have been found not to be so great as to preclude a finding of standing based on residence. See, e.g., Tennessee Valley Authority (Watts Bar Nuclear Plant, Units 1 and 2) ALAB-413, 5 NRC 1418, 1421, n. 4 (1977). Cf. Virginia Electric & Power Co. (North Anna Power Station, Units 1 and 2), ALAB-146, 6 AEC 631, 633-34 (1973); Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2), ALAB-107, 6 AEC 188, 190, 193, reconsid. den., ALAB-110, 6 AEC 247, aff'd, CLI-73-12, 6 AEC 241 (1973).

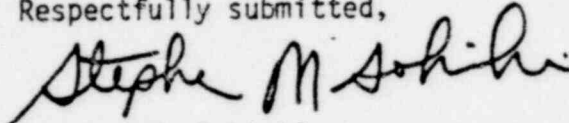
Therefore, the Staff believes that Mr. Waters has satisfied the minimal requirements of 10 CFR §2.714 regarding interest, as those requirements have been interpreted by the Appeal Board.

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Pursuant to this Board's August 6, 1979 "Order Scheduling Special Prehearing Conference," a copy of which is enclosed for Mr. Waters' information, he must file the required supplement to his petition identifying his proposed contentions on or before September 14, 1979 (Order, p. 2).

Respectfully submitted,



Stephen M. Sohinki
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 17th day of August, 1979

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HOUSTON LIGHTING & POWER COMPANY
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}
} Docket No. 50-456
}

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO PETITION FOR LEAVE TO INTERVENE FILED BY RON WATERS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 17th day of August, 1979:

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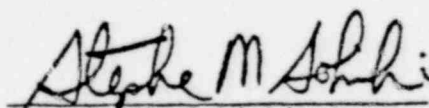
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