

DATA



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of §
HOUSTON LIGHTING & POWER §
COMPANY § Docket No. 50-466
(Allens Creek Nuclear §
Generating Station, Unit 1) §

APPLICANT'S RESPONSE TO PETITION
OF WILLIAM J. SCHUSSLER

Applicant files this response to the petition filed by William J. Schuessler in this proceeding. The petition fails to comply with the Commission's regulations (10 CFR 2.714) and the "Supplementary Notice of Intervention Procedures" (44 Fed. Reg. 35062, June 18, 1979; "Supplementary Notice").

Petitioner appears to live at the very most outer edge of the frequently cited "50 mile zone of geographic interest." However, there is no authority to suggest that a statement of interest pursuant to 10 CFR 2.714(a)(2) can be as vague as is the instant petition. The sole statement of such interest is contained in the second paragraph which reads as follows:

"It gives me great concern that my family, my neighbors and I, may very likely be adversely affected by radiation from this plant - even barring a major accident."

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It appears that petitioner's interest resides in the harm he alleges from releases of radiation in normal operation. Yet there is no assertion that ACNGS will not comply with applicable NRC regulations (10 CFR 50.36, Appendix I) and, clearly, no ground specified for a challenge to the regulations.

The petition is thus impermissibly vague and especially troublesome in the case of one whose residence is in Houston, a city about forty-five miles away from the plant site. Such residence is barely adequate to place a petitioner within the geographical zone of interest. In the words of this Board, it does no more than "not preclude a finding of standing" In such circumstances, at least some indication of the nature of the injury "by radiation from this plant" is necessary.

Finally, there is the matter of timeliness. We assume that this otherwise nonetimely filing is made pursuant to that part of the Supplementary Notice which requires that petitioner:

" . . . state that he failed to file a petition for leave to intervene pursuant to the Board's notices of May 31 and September 11, 1978, because of restrictions on permissible contentions contained in those notices."

In an attempt to meet this requirement, petitioner states that:

"It has been my understanding in the past that restrictions on contentions did not permit me to intervene, so I made no attempt to do so."
(emphasis added)

The reference to "my understanding in the past" is short of the unequivocal statement required by the Supplementary Notice. This may simply be an inartful statement by a pro se petitioner but it is essential to know whether petitioner was actually aware of the earlier notices. We urge that the Board, if it otherwise finds in petitioner's filing a protected interest and a cognizable contention, inquire on the record (by sworn statement, perhaps taken at the pre-hearing conference) as to petitioner's actual state of knowledge at the time of issuance of the earlier notices.

Respectfully submitted,

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	§	
	§	
HOUSTON LIGHTING & POWER COMPANY	§	Docket No. 50466
	§	
(Allens Creek Nuclear Generating Station, Unit 1)	§	
	§	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicant's Response to Petition Of William J. Schussler in the above-captioned proceeding were served on the following by deposit in the United States mail, postage prepaid, or by hand delivery this 27th day of July, 1979.

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