



12-11-79

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

APPLICANT'S RESPONSE TO JOHN F.
DOHERTY'S MOTION TO EXTEND THE
DISCOVERY PERIOD

On December 3, 1979, Intervenor John F. Doherty filed a motion with the Board requesting that the discovery schedule established at the special pre-hearing conference and set forth in the Board's Order of November 19, 1979 (p. 10), with respect to certain admitted contentions be extended from December 6, 1979, to January 27, 1980. Applicant opposes the motion since Intervenor has failed to demonstrate any good reason for the requested extension.

In setting the 45-day period for the conclusion of discovery on certain previously-admitted contentions, the Board stated that if additional time were needed, timely motions for extension of time could be filed. However, the Chairman observed that:

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"And I must advise that as to these older contentions you are going to have to show a pretty good cause for wanting an extension of time. Enough time has passed in order for you to have made sufficient and substantial headway with those discovery proceedings." (Tr. 1623).

Discovery on Intervenor's contentions 3, 5, 6, 7, 8 and 9 has been proceeding for approximately seven months, ^{*}/ and Intervenor provides no good reason to extend the date for its conclusion.

Intervenor states as good cause that he needs an extension of time because (1) the Staff has not yet responded to certain interrogatories; (2) he recently served on the Staff a request for additional documents and he needs additional time to file follow-up interrogatories; and (3) he will be tied up with exams in December. With respect to reasons (1) and (2), Intervenor provides no explanation as to why the Staff's answers to interrogatories or the further production of documents will necessarily require him to seek additional information through interrogatories. Without such a specific explanation, the request for an extension of time is premature. More importantly,

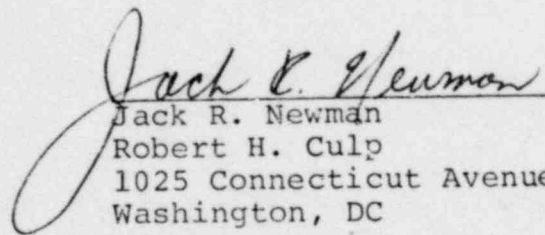
^{*}/ Intervenor's contentions 3, 5, 6 & 7 were admitted by the Board on April 12, 1979; contention 8 was admitted on March 19, 1979; and contention 9 was admitted on May 4, 1979.

Intervenor fails to explain why he waited until the last possible moment in a seven month discovery period to file both an extended request of the Staff for production of further documents and a motion to compel answers from the Staff. Indeed, Intervenor could, and should have, filed these documents much earlier.

Finally, the fact that Intervenor will be busy taking exams in December provides no support for his request for an extension of time. As Intervenor states, his exam period is scheduled for mid-December and therefore it played no part in his failure to complete discovery by December 6. In any event, a 10-day exam period hardly justifies, under the Board's requirement for good cause as stated above, a request for a nearly two month extension of time.

Applicant urges the Board to deny Intervenor's motion to extend the discovery period.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that copies of Applicant's Response to John F. Doherty's Motion to Extend the Discovery Period were served on the following by deposit in the U. S. mail, postage prepaid, or by hand delivery, this 11th day of December, 1979:

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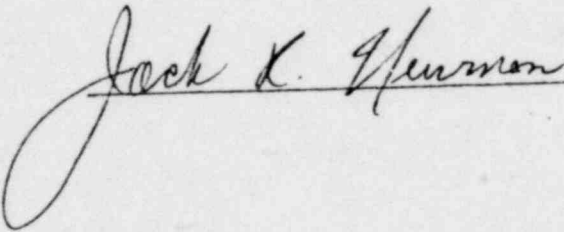
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A handwritten signature in cursive script, reading "Jack K. Gorman", is written over a horizontal line. The signature is fluid and extends slightly beyond the line on both sides.

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