

11-14-79

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 UNTIMELY
PETITION FOR LEAVE TO INTERVENE
OF ROBERT ALEXANDER

Applicant files this response to the untimely petition for leave to intervene filed by Robert Alexander dated October 18, 1979, and served on October 30, 1979, by the NRC Docketing and Service Section.

Mr. Alexander neither identifies his particular interests nor specifies how those interests may be affected by this proceeding as required by 10 CFR §2.714(a). Among the most serious inadequacies, no mention is made of the distance between the proposed ACNGS site and his place of residence. Mr. Alexander thus provides no basis for determining whether he has standing to be admitted as a party to this proceeding.

Nor has petitioner established "good cause" pursuant to 10 CFR §2.714(a)(1)(i) for failing to file a timely petition. Apparently, the only reason for

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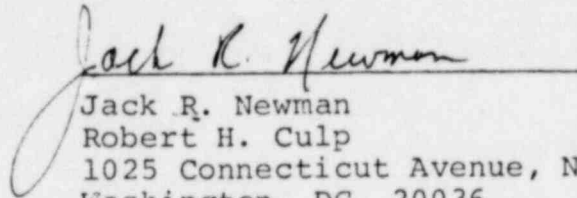
Mr. Alexander's untimely petition, which is filed some three months after the expiration of the time period in the Board's June 18, 1979, notice, is that he moved to the Houston area in September. That reason of course does not constitute "good cause" for filing an untimely petition. Carolina Power & Light Co. (Shearon Harris Nuclear Power Plant, Units 1-4), ALAB-526, 9 NRC 122, 124 (1979). Having failed to establish good cause, petitioner bears a heavier burden to justify his untimely petition under the remaining factors set forth in 10 CFR §2.714(a)(1). Nuclear Fuel Services, Inc. (West Valley Reprocessing Plant), CLI-75-5, 1 NRC 273, 275 (1975).

Petitioner does not make a convincing case on the other four factors set forth in his petition. With respect to paragraph 1, he simply states that he does not "trust my interests with other parties" without identifying what specific interests he wishes to safeguard and why other parties will not be able to protect these interests. Paragraph 2 is a generalized statement that petitioner's participation will enhance these proceedings due to his "familiarity with the Davis-Besse nuclear plant in northwest Ohio." However, he does not identify in what respects he is "familiar" with the Davis-Besse plant or in what respects this familiarity is relevant to the ACNGS proceeding. In

paragraph 3, petitioner states that his interests will [not] be fully and accurately represented by existing parties citing his "responsibility" to his wife and future children to provide a safe environment. This cryptic remark does not begin to provide an explanation as to why his interests cannot be represented by existing parties. With respect to paragraph 4, petitioner states that his participation will not broaden the issues and that he asks for no delay in this proceeding. Since, as discussed below, we do not know what issues Mr. Alexander seeks to raise, there is no way for the Board to determine whether this statement is accurate.

Finally, Mr. Alexander has not provided a list of the contentions which he seeks to have admitted in this proceeding. A petitioner cannot be admitted as a party without setting forth at least one admissible contention. 10 CFR §2.714(b). Accordingly, Mr. Alexander's petition must be rejected.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicant's Response to Untimely Petition for Leave to Intervene of Robert Alexander in the above-captioned proceeding were served on the following by deposit in the United States mail, postage prepaid, or by hand-delivery this 14th day of October, 1979.

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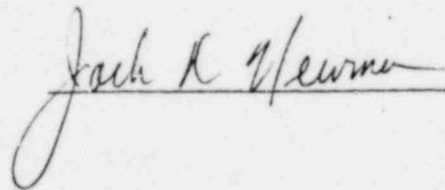
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