

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 JOHN F.
DOHERTY'S MOTION TO EXTEND DIS-
COVERY BEYOND THE 120 DAY LIMIT
SET ON OCTOBER 19, 1979

Intervenor John F. Doherty filed a motion on February 8, 1980 requesting the Board to extend the discovery period on contentions stipulated to and admitted at the October, 1979 special prehearing conference to some future unspecified date. For the reasons discussed below, Applicant opposes the motion.

Intervenor Doherty's motion is premised on the belief that after discovery concludes on February 20, 1980 on the contentions admitted at the October, 1979 special prehearing conference, the "parties will be biding time unable to make progress in developing their cases, in most respects." As a basis for this statement, intervenor "speculates" that a prehearing conference order ruling on the admissibility of contentions argued at the October, 1979 special

prehearing conference will not be issued by the Board before February 20.

Intervenor has failed to establish good cause for extending the discovery schedule. First, there is no rational basis for speculating that the prehearing conference order will not be issued until some time after February 20. The special prehearing conference was held in this proceeding on October 15-19, 1979 some four months ago and presumably during this time, the Board has been working on the order. Thus, it is reasonable to assume that the Board will issue the prehearing conference order any moment, but certainly not, to any appreciable extent, beyond February 20.

Second, the Board's forthcoming prehearing conference order will have no effect on the status of contentions already admitted into this proceeding. This order will simply rule on the admissibility of other contentions raised in the proceeding, including the possibility of consolidation of issues. Discovery has proceeded in an orderly fashion and on a reasonable schedule on admitted contentions. Intervenor must recognize that, instead of "biding time," he must begin preparation of an affirmative case on his admitted contentions on which discovery has closed in order to respond to motions for summary disposition or to proceed promptly to hearing on these issues.

Intervenor has indicated that he had done little toward preparation of his case on these admitted contentions, but has stated that he intends to become an "expert" on some issues prior to the evidentiary hearing. See e.g., Doherty deposition, pp. 7, 111-112 (Nov. 19, 1979). The period immediately following the close of discovery should be used for this purpose.

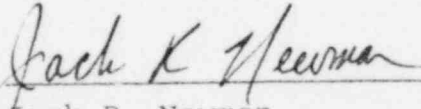
Finally, with respect to intervenor's request to extend the discovery schedule to all parties, the Board has previously ruled that, absent authorization, a party may not represent the interests of other parties. ASLB Order, February 4, 1980, p. 1. Intervenor makes no statement with respect to such authorization.

Intervenor has failed to provide good cause in support of his motion to extend the discovery schedule, and, accordingly, the motion should be denied.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicant's Response to John F. Doherty's Motion to Extend Discovery Beyond the 120 Day Limit set on October 19, 1979, in the above-captioned proceeding were served on the following by deposit in the United States mail, postage prepaid, or by hand-delivery this 15th day of February, 1980.

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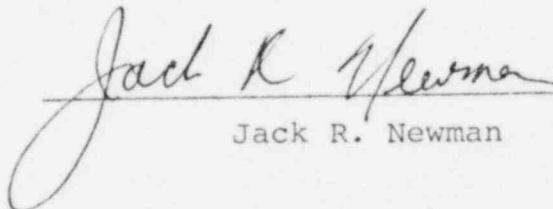
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