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March 13, 1980

DOCKETED USNRC
MAR 13 1980
Office of the Secretary
Docketing & Service
Branch

HAND DELIVER

Susan B. Cyphert, Esquire
U.S. Department of Justice
Antitrust Division, Energy Section
414 Eleventh Street, N.W.
Room 8308
Washington, D. C. 20530

Re: In the Matter of Houston Lighting & Power Company, et al. (South Texas Project, Units 1 and 2), Docket Nos. 50-498A-50-499A; Texas Utilities Generating Company, et al. (Comanche Peak Steam Electric Station, Units 1 and 2), Docket Nos. 50-445A-50-446A

Dear Ms. Cyphert:

Thank you for your letter of March 12, 1980 (copy attached). Houston is willing, as I indicated, to accept that letter in lieu of the immediate interrogatory answer contemplated by the Board's ruling at the March 7 prehearing conference, based on your representation that the Department simply cannot now give us any more information. I wish to emphasize, however, that your letter does not provide what we need in order to take a meaningful deposition of Mr. Stover and does not resolve the problems Houston has been presented with concerning his testimony.

By virtue of the Department's representation that it now intends to call Mr. Carl Stover as an expert witness, we will have to redepose Mr. Stover regarding his expert opinion. Before we do undertake to redepose Mr. Stover, however, I need clarification from you as to whether you have now reached an agreement with Mr. Stover and his attorney that Mr. Stover will give expert testimony.

8004090439

In the deposition of Mr. Stover taken on July 24, 1979, we were prevented from asking Mr. Stover questions about his expert opinion. Prior to the beginning of the deposition, Mr. Galt represented that Mr. Stover had not been retained as an expert witness by the Department and, therefore, he was not going to let Mr. Stover answer any questions relating to Mr. Stover's expert opinions. Mr. Galt did, in fact, instruct Mr. Stover not to answer questions on matters which the Department now states he is going to testify about. Ms. Harris agreed with the position taken by Mr. Galt and likewise objected to questions in the deposition on the grounds that they called for expert opinion. Accordingly, I am requesting immediate confirmation that the Department has now retained Mr. Stover, and that his attorney will not object to Houston asking him expert opinion questions when we redepose him.

In addition, Mr. Stover has refused to produce the studies which the Department has indicated he is now going to testify about. He claimed that these studies were privileged and would not be produced because he was not going to testify about them in the hearing. Again, if Mr. Stover is now going to testify about those studies, we would expect the Department to produce them immediately along with all of the workpapers and correspondence relating to the studies. As you know, Mr. Stover's clients have also refused to produce these studies. If the Department intends to call any of Mr. Stover's clients as fact witnesses, we request that you provide us with their copies of Mr. Stover's studies along with any of his workpapers they may have.

I concur in the suggestion in your letter that the Board should be advised of our agreement and of the status of this matter. Accordingly, I have forwarded copies of our correspondence on this matter to the Board members and the Service List.

The exigencies of time are such that the Department's immediate attention to the matters set forth above would be much appreciated.

Very truly yours,

Douglas G. Green

Attorney for Houston Lighting
& Power Company

DGG/nm

cc: Service List

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number

DAK:SBC
60-415-105

March 12, 1980

HAND-DELIVERED

Douglas G. Green, Esquire
Lowenstein, Newman, Reis,
Axelrad & Toll
1025 Connecticut Avenue, N. W.
Washington, D. C. 20036

Re: In the Matter of Houston Lighting & Power Company, et al. (South Texas Project, Units 1 and 2), Docket Nos. 50-498A-50-499A; Texas Utilities Generating Company, et al. (Comanche Peak Steam Electric Station, Units 1 and 2), Docket Nos. 50-445A-50-446A

Dear Mr. Green:

Pursuant to our telephone conversation on March 11, 1980, I am sending you this letter to confirm our agreement.

On February 19, 1980, Houston Lighting & Power Company ("HL&P") filed its Motion to Compel further answers from the Department of Justice ("Department") re: Carl Stover. On March 5, 1980, the Department filed its Response which sets forth our present knowledge regarding Mr. Stover's proposed testimony. On March 7, 1980, the Board ordered the Department to provide HL&P with further answers to its Fourth Set of Interrogatories to the Department regarding Mr. Stover. On March 11, 1980, I contacted you to clarify that the above-mentioned Response, filed by the Department on March 5, 1980, provides the totality of the Department's present knowledge regarding Mr. Stover at this time and contains the information requested by your interrogatories. I agreed to provide you with any further information as it became available regarding the scope of Mr. Stover's proposed testimony or any other

information sought by those interrogatories. I further agreed to provide you with any documents sent to or received from Mr. Stover, in compliance with the Board's Order relating to expert witnesses. 1/ Finally, if HL&P desires, the Department is available to attend another deposition of Mr. Stover at any mutually convenient time prior to trial.

It is my understanding, that based on the aforegoing representations that HL&P presently is satisfied that its interrogatories have been answered. I would like to inform the Board of this agreement at your earliest convenience, preferably today or tomorrow.

Sincerely,

Susan Braden Cyphert

Susan Braden Cyphert
Attorney
Energy Section

cc: Carl Stover

Enclosure

1/ Pursuant to that agreement I am enclosing a copy of a letter sent to Mr. Stover on March 11, 1980.

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number

MAR 11 1980

DAK:SBC
60-415-105

Carl N. Stover
C. H. Guernsey, Inc.
3555 N.W. 58th Street
Oklahoma City, Oklahoma 73102

Re: In the Matter of Houston Lighting & Power Company, et al. (South Texas Project, Units 1 and 2), Docket Nos. 50-498A-50-499A; Texas Utilities Generating Company, et al. (Comanche Peak Steam Electric Station, Units 1 and 2), Docket Nos. 50-445A-50-446A

Dear Mr. Stover:

Pursuant to our telephone conversation, enclosed please find a copy of : (1) E. Dale Scarth's direct testimony in the SEC proceedings; (2) a copy of E. Dale Scarth's deposition testimony in this proceeding to date (he is scheduled to be deposed again in Dallas on March 27-28, 1980): and (3) a copy of the deposition testimony in this proceeding of D. Eugene Simmons. Mr. Simmons will be redeposed on April 4-5, 1980, here in Washington.

Texas Utilities has designated Mr. Scarth as its expert engineer in this case. Houston Lighting & Power Company ("HL&P") has designated Mr. Simmons and Herb Woodson of the University of Texas as its expert engineering witnesses. Mr. Woodson is being deposed in Austin, Texas, today. I will send you a copy of his transcript next week.

For your information, I am also enclosing a copy of a motion the Department recently received regarding your proposed testimony and a copy of the Department's response which is self-explanatory. Since the Department has now listed you as a potential expert witness, I am obligated by Order of the Board to provide copies of any correspondence to you or from you to all counsel, which I have done with this letter.

At a pretrial conference last Friday, the Board indicated that trial would commence May 14, 1980, as scheduled. We are obligated to provide a summary of the proposed testimony of all witnesses in our case to the Board and all counsel by April 14, 1980. In that regard, I would like to schedule a convenient time prior to that time to discuss this matter with you. Attorneys for HL&P have requested an opportunity to redepose you if your testimony will expand beyond the scope of your previous deposition.

Thank you for your continuing cooperation and interest in this matter. Please feel free to contact me regarding a convenient time and place we can meet and if I can be of further assistance to you or your client (telephone: 202-724-6667).

Sincerely,

Susan Braden Cyphert

Susan Braden Cyphert
Attorney
Energy Section
Antitrust Division

Attachments

cc: all counsel of record

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
HOUSTON LIGHTING & POWER COMPANY, et al.	)	Docket Nos. 50-498A 50-499A
	)	
(South Texas Project, Units 1 and 2)	)	
	)	
	)	
TEXAS UTILITIES GENERATING COMPANY et al.	)	Docket Nos. 50-445A 50-446A
	)	
(Comanche Peak Steam Electric Station, Units 1 and 2)	)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing:

Letter to Susan B. Cyphert, Esquire

were served upon the following persons, by hand *, or by deposit in the United States Mail, first class postage prepaid, this 13th day of March, 1980.

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