

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

THE ATOMIC SAFETY AND LICENSING BOARD

Sheldon J. Wolfe, Chairman  
Gustave A. Linenberger  
Dr. E. Leonard Cheatum



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

PROTECTIVE ORDER

On February 12, 1980, Intervenor TexPirg filed its Seventh Set of Interrogatories to Applicant. In this request, TexPirg requested certain documents related to complaints by QA inspectors. One such document is a report entitled "South Texas Nuclear Project, Quality Assurance and Quality Control, Management Assessment Survey for Brown & Root, Inc. (January 1980)". Both Houston Lighting & Power Company ("HL&P") and Brown & Root are willing to produce this report to TexPirg for its inspection and copying. However, Brown & Root believes that public disclosure of this information would be oppressive in that it would seriously impair its ability to do similar studies in the future. TexPirg has advised that it has no objection to the entry of a Protective Order protecting the confidentiality of the following described document and the information contained therein.

On April 2, 1980, Applicant filed a Motion for Protective Order, which we herewith grant in the interest of obtaining the document without further delay in the case. In so doing, however, we explicitly decline to find that Applicant, upon the behalf of Brown & Root, Inc., or Brown & Root itself, has met the burden of showing that the document in question and the commercial information contained therein are confidential in character and entitled to protection from public disclosure under the standards set forth in Kansas Gas and Electric Company (Wolf Creek Nuclear Generating Station, Unit No. 1), ALAB-327, 3 NRC 408, 416-18 (1976).

WHEREFORE, IT IS ORDERED that the document entitled: South Texas Nuclear Project, Quality Assurance and Quality Control, Management Assessment Survey for Brown & Root, Inc. (January 1980) and the information contained therein, shall be accorded confidential treatment and subject to the following restrictions:

1. The foregoing document and information contained therein shall not be disclosed to any person other than (a) counsel for parties to this proceeding, including necessary secretarial and clerical personnel assisting such counsel; (b) qualified persons taking testimony involving such documents or information and necessary stenographic and clerical personnel thereof; (c) independent consultants and technical experts and their staff who are engaged directly in this litigation; and (d) the Commission, the Board, the presiding officer, or Commission's staff.

2. The foregoing document and information contained therein above shall not be made available to any person designated in paragraph 1(c) unless they shall have first read this order and shall have agreed, in writing (a) to be bound by the terms thereof; (b) not to reveal such document or information to anyone other than another person designated in paragraph one; and (c) to utilize such document and information solely for purposes of this proceeding.

3. If the Commission or the Board orders that access to or dissemination of the foregoing document and information contained therein shall be made to persons not included in paragraph 1 above, such matter shall only be accessible to, or disseminated to, such persons based upon the conditions pertaining to, and obligations arising from this order, and such persons shall be considered subject to it.\*/

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\*/On April 8, 1980, Mr. John Doherty filed an objection to Applicant's Motion for Protective Order, asserting in substance that, in the past, he has faithfully observed protective orders issued upon his requests for documents and that he has a right to prepare for a contention submitted by another party-intervenor. Mr. Doherty requested that the Board amend the proposed protective order so as to include him among the persons permitted to view and copy the document.

Mr. Doherty is the only pro se intervening party that has filed a timely objection. He is entitled to inspect and copy the instant document for purposes of cross-examination. Access to or dissemination of the foregoing document and information contained therein shall be made to Mr. Doherty, subject to the conditions in this order and subject to the obligations arising therefrom.

4. Any portion of a transcript in connection with this proceeding containing the foregoing document or information contained therein shall be examined in camera and shall be bound separately and filed under seal. If said document or information is included in an authorized transcript of a deposition or exhibits thereto, arrangements shall be made with the court reporter taking the deposition to bind such portions and separately label them "(Company's Name), BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER". Before a court reporter receives any such document or information, he or she shall have first read this order and shall have agreed in writing to be bound by the terms thereof.

5. Any documents or information defined above are to be accorded confidential treatment within the meaning of 5 U.S.C. 552(b)(4) and 18 U.S.C. 1905, subject to a final Commission ruling, after notice, under the Freedom of Information Act or 10 C.F.R. §2.790.

6. If said document or information is disclosed to any person other than in the manner authorized by this protective order, the person responsible for the disclosure must immediately bring all pertinent facts relating to such disclosure to the attention of counsel for Brown & Root, Inc. and Houston Lighting & Power Company and the presiding officer and, without prejudice to other rights and remedies of Brown &

Root, Inc. and Houston Lighting & Power Company, make every effort to prevent further disclosure by it or by the person who was the recipient of such information.

7. Nothing in this order shall affect the admissibility into evidence of the foregoing documents or information contained therein, or abridge the right of any person to seek judicial review or to pursue other appropriate judicial action with respect to any ruling of the Commission concerning the availability to the public of said business information.

8. Upon final termination of this proceeding, each person that is subject to this order shall assemble and return to counsel for Houston Lighting & Power Company all documents and information defined above, including all copies of such matter which may have been made, but not including copies containing notes or other attorney's work product that may have been placed thereon by counsel for the receiving party. All copies containing notes or other attorney's work product shall be destroyed. This paragraph shall not apply to the Commission, the Board, the presiding officer or the Commission's staff, which shall retain such material pursuant to statutory requirements and

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for other record keeping purposes, but may destroy those additional copies in its possession which it regards as surplusage.  
IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

  
Sheldon J. Wolfe, Chairman

Dated at Bethesda, Maryland  
this 18th day of April 1980.