

June 11, 1980

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

Houston Lighting & Power Company
(Allen's Creek Nuclear Generating
Station, Unit 1)

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DOCKET NUMBER

50-466

MOTION TO COMPEL DISCOVERY:

Sheldon J. Wolfe, Esq.
Chairman,
Atomic Safety and Licensing Board Panel

Mr. Chairman:

Pursuant to 10 CFR 2.740 (f), Intervenor Bryan Baker hereby moves that the Board order Applicant to comply with his request to inspect and copy:

(1) Transcript of Applicant's rate-hike hearing before the Texas Public Utilities Commission.

(2) All documents submitted by Applicant and other parties in connection with rate-hike application.

I first requested access to these documents in a telephone conversation with J. Gregory Copeland, counsel for the Applicant, in March or early April of 1980. He informed me that, although he foresaw no objection to my request, he preferred that I make a formal request in writing just to keep things official.

In my submittal of May 9, 1980, I made a Request for Access to Material in Possession of Applicant. About May 30 I received what appeared to be an ex parte communication from Mr. Copeland stating in part: "The transcript of Houston Lighting & Power Company's most recent rate case and the legal file in connection therewith are available for your inspection at our offices upon reasonable advance notice."

On June 5 I attempted to contact Mr. Copeland about this matter and was told that he would call me back. He did not call that day or June 6, a Friday. On Monday morning, June 9, I again called Mr. Copeland about this matter, and was told that he would be out of town until Wednesday.

I asked to speak to another lawyer on the case and that afternoon Mr. Hancock called, said that he would have to consult with Mr. Copeland by phone and that he would call me back that afternoon or the next morning. The next afternoon, after I made two calls to his office, Mr. Hancock called to inform me that

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counsel's copy of the rate case was at the bindery, that he had been unable to locate HL&P's copy of the rate case, that he had been scrambling around to get together a partial set of documents, and that he did not know when I would be able to come and look at what he did have.

Intervenor would like to believe that a good faith effort is now being made to provide access to the documents in question. However, I cannot preclude the possibility that I am being given the "runaround" in an effort to limit my access to a document which may be of great relevance to my contention.

I therefore move that the presiding officer compel Applicant to provide access to the documents in question for purposes of inspection and possible copying, during Applicant's regular business hours, without requiring Intervenor to provide "advance notice".

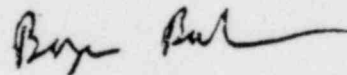
Intervenor further requests that access to said documents be provided for an indefinite period beyond the 120-day discovery period, and that Applicant's legal file and transcript of any subsequent rate-hike proceeding be provided as well.

I have hesitated to involve the Board in this matter. I had assumed that once this contention had been admitted (Mar 10, 1980) my right to examine relevant documents was clearly established, and I naively believed that Applicant would cooperate in providing immediate access to documents of such obvious relevance without the necessity of sending out copies to all parties, quoting chapter and verse from 10 CFR, and waiting thirty days for a reply. I know better now, but the knowledge has cost me time.

I am scheduled to be deposed by the Applicant on June 13, two days from this writing; it is too late already for me to make any meaningful inspection of the rate case before being deposed. There are now just 30 to 35 days left in the discovery period, and I have no assurance that will locate and make available these documents at any time in the near future. Applicant

I trust that the Board will grant my motion, and give me the time I need to properly examine Applicant's rate-hike file.

Respectfully submitted,



Bryan Baker

June 11, 1980

copies to: All Parties