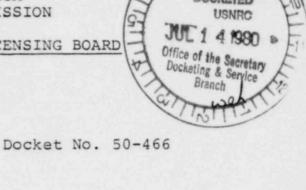
UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFTTY AND LICENSING BOARD

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



APPLICANT'S RESPONSE TO INTERVENOR JOHN F. DOHERTY'S MOTION FOR FINANCIAL ASSISTANCE FROM NRC FUNDS THROUGH THE BOARD

On June 27, 1980, Intervenor John F. Doherty filed a motion in which he requests the Atomic Safety and Licensing Board to appropriate NRC funds through "reimbursement or lump sum" payment by Staff counsel to finance his participation in this proceeding. Alleging indigence, Intervenor asserts that his participation "can be expected to contribute substantially to a full and fair determination of the issues" (pp.2-3).

As support for his request, Intervenor has attached a G.A.O. decision dated January 25, 1980, relating to the issue of financial assistance to intervenors in NRC proceedings.

Applicant submits that the above motion should be denied for the following reasons:

First, the Licensing Board's authority in this proceeding, as set forth in the Commission's rules and regulations and in the Notice of Hearing published in this proceeding (38 Fed. Reg.), does not extend to ordering the appropriation of Nuclear Regulatory Commission funds to an intervenor. That authority, which lies with the Commission itself, has not been delegated to this Board.

Second, no basis exists in the motion or elsewhere for the Board to certify that question of intervenor funding to the Commission. The Commission in the past has refused to provide funding to intervenors in NRC proceedings. In a recent decision, the Commission, taking into consideration the G.A.O. decision cited in Intervenor's motion as well as the presently governing legislation and its legislative history, "decline[d] to consider such funding."

For the foregoing reasons, Intervenor's motion should be denied.

^{1/} Financial Assistance to Participants in Commission
Proceedings, 4 NRC 494 (1975); Cf., Transnuclear, Inc., CLI77-31, 6 NRC 849, 853 (1977).

Metropolitan Edison Company (Three Mile Island Station, Unit No. 1), Memorandum and Order (CLI-80-19) Slip Op. at 5 (May 16, 1980). This decision rested in large part upon the appropriations act for the fiscal year which expires September 30, 1980. Appropriations for the fiscal year beginning October 1, 1980, have not yet been enacted. However, on June 25, 1980, the House passed HR 7590 which would make such appropriations. 126 Cong. Rec. H5614, H5657 (June 25, 1980, daily ed.). Section 502 of HR 7590 as passed by the House provides that none of the funds appropriated shall be used to compensate "parties intervening in regulatory or adjudicatory proceedings funded in this Act." See also H. Rept. 96-1093, 96 Cong., 2nd Sess., p. 148.

Respectfully submitted,

OF COUNSEL:

BAKER & BOTTS 3000 One Shell Plaza Houston, Texas 77002

LOWENSTEIN, NEWMAN, REIS, AXELRAD & TOLL 1025 Connecticut Ave., N.W. Washington, D. C. 20036 J. Gregory Coperand C. Thomas Bidele, Jr. Charles G. Thrash, Jr. 3000 One Shell Plaza Houston, Texas 77002

Jack R. Newman Robert H. Culp 1025 Connecticut Ave., N.W. Washington, D. C. 20036

ATTORNEYS FOR APPLICANT HOUSTON LIGHTING & POWER COMPANY

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	5		
HOUSTON LIGHTING & POWER COMPANY	9	Docket No.	50-466
(Allens Creek In clear Generating Station, Unit 1,	9		

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicant's Response to Intervence John F. Doherty's Motion for Financial Assistance from NRC Funds Through the Board in the above-captioned proceeding were served on the following by deposit in the United States mail, postage prepaid, or by hand-delivery this 11th day of July, 1980.

Sheldon J. Wolfe, Esq., Chairman Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D. C. 20555

Dr. E. Leonard Cheatum Route 3, Box 350A Watkinsville, Georgia 30677

Mr. Gustave A. Linenberger
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. Chase R. Stephens
Docketing and Service Section
Office of the Secretary
of the Commission
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Richard Lowerre, Esq.
Assistant Attorney General
for the State of Texas
P. O. Box 12548
Capitol Station
Austin, Texas 78711

Hon. Charles J. Dusek Mayor, City of Wallis P. O. Box 312 Wallis, Texas 77485

Hon. Leroy H. Grebe County Judge, Austin County P. O. Box 99 Bellville, Texas 77418

Atomic Safety and Licensing
Appeal Board
U.S. Nuclear Regulatory Commissio
Washington, D. C. 20555

Atomic Safety and Licensing Appeal Board U.S. Nuclear Regulatory Commissio Washington, D. C. 20555

Steve Sohinki, Esq. Staff Counsel U.S. Nuclear Regulatory Commissio Washington, D. C. 20555 Mr. Bryan L. Baker 1118 Montrose Houston, Texas 77019

J. Moryan Bishop 11418 Oak Spring Houston, Texas 77043

Stephen A. Doggett P. O. Box 592 Rosenberg, Texas 77471

John F. Doherty 4327 Alconbury Houston, Texas 77021

Robert S. Framson Madeline Bass Framson 4822 Waynesboro Houston, Texas 77035

Carro Hinderstein 609 Fannin, Suite 521 Houston, Texas 77002 D. Marrack 420 Mulberry Lane Bellaire, Texas 77401

Brenda McCorkle 6140 Darnell Houston, Texas 77074

W. Matthew Perrenod 4070 Merrick Houston, Texas 77025

F. H. Potthoff 7200 Shady Villa, No. 110 Houston, Texas 77080

Wayne E. Rentfro P. O. Box 1335 Rosenberg, Texas 77471

James M. Scott 13935 Ivy Mount Sugar Land, Texas 77478

J Gregory Espeland