

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

THE ATOMIC SAFETY AND LICENSING BOARD

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



In the Matter of)
HOUSTON LIGHTING AND POWER COMPANY)
(Allens Creek Nuclear Generating)
Station, Unit 1))

Docket No. 50-466 CP

PROTECTIVE ORDER

On February 19, 1980, Intervenor John F. Doherty filed his fifteenth request for documents from Applicant. In this request, Mr. Doherty listed Allens Creek Nuclear Generating Station Preliminary Safety Analysis Report Table 4 2-18 "Fuel Rod Stress Design Limits," General Electric Report 22A4365 "Interim Containment Loads Report--Mark III Containment (Revision 2)," NEDE-21606-P, "Mark III One-Third Area Scale Submerged Structure Tests." Both HL&P and the General Electric Company are willing to produce these documents to Mr. Doherty for his inspection and copying; however, General Electric believes that certain parts of these documents relate to or contain information which is of a confidential or proprietary nature, the release or disclosure of which to third parties could seriously impair the General Electric Company's relationship with its competitors. Mr. Doherty has not challenged the assertions that these documents are proprietary in nature and has advised that he has no objection to the entry of a Protective Order protecting the confidentiality of the following described documents and the information contained therein.

On April 7, 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 behalf of the General Electric Company, or General Electric itself, has met the burden of showing that the document in question and the information contained therein are confidential or proprietary in character and are 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 documents entitled Allens Creek Nuclear Generating Station Preliminary Safety Analysis Report Table 4.2-18 "Fuel Rod Stress Design Limits," General Electric Report 22A4365 "Interim Containment Loads Report--Mark III Containment (Revision 2)," NEDE-21606-P, "Mark III One-Third Area Scale Submerged Structure Tests," and the information contained therein shall be accorded confidential treatment and subject to the following restrictions:

1. The foregoing documents 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 documents 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 1; 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 documents 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.

4. Any portion of a transcript in connection with this proceeding containing the foregoing documents or information contained therein shall be examined in camera and shall be bound separately and filed under seal. If said documents or information are 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 is 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 documents or information are 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 the General Electric Company and Houston Lighting and Power Company and the presiding officer and, without prejudice to other rights and remedies of the General Electric Company and Houston Lighting and Power Company, make every effort to prevent further disclosure by it or by the person who was the recipient of such information.

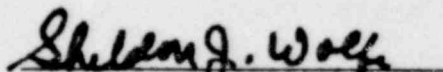
7. Nothing in this order shall affect the admissibility into evidence of the foregoing documents or information contained therein, or abridge the right of any person to seek judicial review or to pursue other appropriate judicial action with respect to any ruling of the Commission concerning the availability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

8. Upon final termination of this proceeding, each person that is subject to this order shall assemble and return to counsel for Houston Lighting and 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 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

Dated: April 29, 1980


Sheldon J. Wolfe, Esquire
Chairman