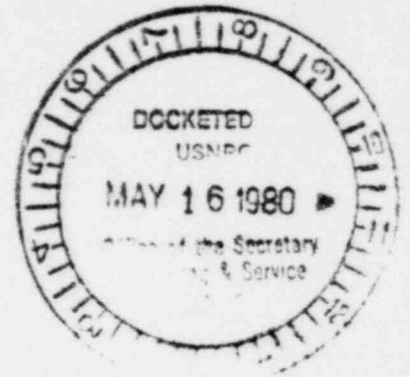


Houston Lighting & Power Company

Electric Tower
P.O. Box 1700
Houston, Texas 77001

May 9, 1980



DOCKET NUMBER

PROPOSED RULE

PR-19 (36)

(45 FR 19564)

Mr. Chilk
Secretary
NRC
1717 H Street
Washington, D.C. 20555

Dear Mr. Chilk:

On Wednesday, March 26, 1980 (45 F.R. 19564), the Federal Register published a notice of proposed rulemaking relating to amendments to 10 CFR §§ 19.2 and 19.14. HL&P submits the following comments on the proposed amendments.

At present 10 CFR § 19.2, which provides for the presence of representatives of the licensee and of workers during inspections, relates only to holders of operating licenses. The proposed amendment would extend the scope of the provision to holders of construction permits and limited work authorizations. We have no objection to this change.

However, it is also proposed to amend 10 CFR § 19.14 by adding a new subsection, which would read as follows:

(h) At the request of the NRC inspector, an informal conference with a representative of licensee (including holders of construction permits and limited work authorizations) management shall be held at any time during an inspection to discuss tentative inspection findings, complaints of individuals involved in the licensed activities concerning radiological working conditions, safety, safeguards and environmental impacts and resolution (sic) of matters pertaining to inspection findings. The NRC inspector and the licensee shall each have the option of inviting, as either determines appropriate, individuals with legitimate interests in matters pertaining to the inspection. (Action taken under this subparagraph shall not affect the option of confidentiality afforded any individual who provides information to the NRC, to the extent authorized by law.)

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The notice states:

The intent of this proposed rulemaking is twofold: first, to codify in the regulations the current practice of holding meetings with licensee representatives during NRC inspections and second, to allow NRC inspectors to invite to these meetings, individuals with specific and legitimate interest in the inspection.

The notice also explains the basic purpose of interviews as follows:

These meetings are necessary for an orderly and complete inspection process, and are used by the NRC inspectors to clarify inspection objectives and procedures and discuss inspection findings, including the resolution of apparent items on noncompliance with regulatory requirements.

We agree. However, the objectives of the meetings as so described can not be achieved unless there is a free and frank discussion among the parties. This appears to be a consideration which the Commission recognizes. The notice states that "corrective actions" and "management control procedures" are often discussed at exit interviews and that, dependent upon who is present, the licensees may be hesitant to discuss such matters. For this reason, the notice states that the regulation has been framed so as to obviate such problems. We believe that, unless a change is made in the regulation as proposed, such problems will not in fact be obviated. In fact, we question the need for any additional regulation in this area.

These interviews are informal and are valuable to both the NRC and the licensee because of this informality. The proposed regulation would formalize these informal interviews. This formalization would seriously undercut the essential value of an informal meeting. Once these meetings are formalized by regulation, then by necessity, administrative procedures must follow and the value of the meeting would soon be totally negated. In addition, the presence of a resident inspector on site obviates the need for any additional regulations in this area, as this individual is entitled to invite to the meeting anyone he feels has a legitimate interest in inspection matters. In conclusion, we believe that the long-range effect of the new regulations will be to severely limit and perhaps even eliminate the value of informal conferences.

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However, if the NRC believes that these regulations are still necessary, then we submit these additional comments in an attempt to preserve at least some value for these conferences.

The proposed regulation would permit the presence at the exit interview of "individuals with legitimate interests in matters pertaining to the inspection." Although the phrase is nowhere defined, the notice suggests -- as examples only -- that individuals with such interests would include a representative of workers who has made a request for an inspection under 10 CFR § 19.16 or a "worker who has expressed an interest in the inspection which has been brought to the attention of the NRC according to §§ 19.15 or 19.16 of the regulations ...," i.e., a worker who has provided an inspector with information or has requested an inspection. However, these examples do not purport to be a complete enumeration of all of the kinds of persons who could fall within the phrase "individuals with legitimate interests in matters pertaining to the inspection." That phrase is expansive and imprecise and could, for example, include an individual who is opposing construction or operation of a plant in an administrative or judicial proceeding or a worker who has asserted a claim related to the subject matter of the exit interview. This could result in the presence of attorney's at these meetings.

In short, the regulation as drafted would give the NRC inspector sole discretion to invite individuals to exit interviews even where the relationship of such individual to the licensee is so adverse that full and frank discussion cannot be expected. The notice suggests that such "problems should be obviated by the fact that the NRC inspector and licensee would have the prerogative of inviting only persons with legitimate specific interests." However, it is difficult to see why this would be so when persons with such "legitimate specific interests" could very well be persons with adverse interests.

We believe that the problem can be avoided if the regulation is amended to recognize the right of each of the parties, the NRC and the licensee, to object to individuals who are not employees of the other from attending. One way of accomplishing this would be to eliminate the phrase "as either determines appropriate" in the proposed new paragraph (h) and to substitute the phrase "subject to the agreement of the other."

It is our view that the right to exclude individuals the other party desires to have present at meetings will not be exercised often. In this connection, we are aware that the notice states that on several occasions licensees have rejected the attendance at meetings of workers or representatives of workers with legitimate interests and that this

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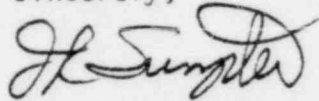
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"has resulted in greater difficulty in resolving health and safety considerations." We submit that upon analysis it will be discovered that this has occurred only infrequently. In any event, the "greater difficulty" referred to will hardly be reduced if NRC inspectors can insist upon having individuals with adverse interests present.

Sincerely,



J.R. Sumpter, Manager
Nuclear Department
Power Plant Engineering

JRS/kw

cc: D.R. Betterton