

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Alan S. Rosenthal, Chairman
Michael C. Farrar
Thomas S. Moore



In the Matter of)

HOUSTON LIGHTING & POWER COMPANY, et al.)

(South Texas Project, Units 1 and 2))

TEXAS UTILITIES GENERATING COMPANY, et al.)

(Comanche Peak Steam Electric Station,)
Units 1 and 2))

Docket Nos. 50-498A
50-499A

Docket Nos. 50-445A
50-446A

MEMORANDUM

August 14, 1980

Yesterday, the Licensing Board entered an order in which, on reconsideration, it adhered to its March 7 oral discovery ruling entered on the joint motion of the Department of Justice and the NRC staff. In accordance with our July 18, 1980 order, the utilities which had previously filed petitions for directed certification in connection with that ruling may now renew their petitions. This may be accomplished by a notification to this Board in writing that the petition is being renewed. Any such

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notification is to be in our hands no later than 3:00 p.m. on Tuesday, August 19, 1980.^{1/}

There will be no necessity to file and serve additional copies of the petition previously submitted or any other documentation. If it so desires, a petitioner may, however, include in its renewal notification a brief recitation of any new developments which it believes to bear upon either the warrant for interlocutory review of the March 7 ruling or the merits of the controversy. In such event, the Board will then establish the time period for the responses of the other parties. Otherwise, any renewed petition will be considered on the basis of the papers already on file with this Board and the oral argument of counsel on March 27, 1980.

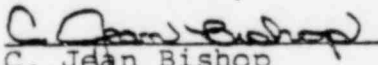
Assuming that at least one of the directed certification petitions is renewed by the date above specified, the effectiveness of the March 7 ruling will be automatically stayed pending either the disposition of the petition(s) or further order of this Board.

^{1/} This short time limit is being imposed in light of the schedule set forth in the Licensing Board's August 13 order. That schedule calls for the settlement of all remaining issues by September 15 and the commencement of the evidentiary hearing on November 5. In that circumstance, it is obviously desirable that the discovery controversy at hand be finally resolved at an early date.

Mr. Farrar has resigned his position as a permanent legal member of the Appeal Panel, effective August 16, 1980. Accordingly, he no longer will serve on this Board. The remaining members of the Board will consider any renewed petitions for directed certification as authorized by the Commission's quorum rule. 10 CFR 2.787(b); cf. 10 CFR 2.721(d). Only in the event of a disagreement between them will another Appeal Panel member be assigned to the proceeding for the purpose of acting upon the petition(s).

The text of this memorandum is being today read by telephone to counsel directly involved in the discovery controversy.

FOR THE APPEAL BOARD


C. Jean Bishop
Secretary to the
Appeal Board

Mr. Farrar did not participate in this memorandum.