LAW OFFICES

LOWENSTEIN, NEWMAN, REIS, AXELRAD & TOLL

1025 CONNECTICUT AVENUE, N. W.

WASHINGTON, D.C. 20036

202 · 862-8400

ROBERT LOWENSTEIN
JACK R. NEWMAN
HAROLD F. REIS
MAURICE AXELRAD
DAVID R. TOLL
KATHLEEN H. SHEA
J. A. BOURNIGHT, JR.
MICHAEL A. BAUSER

E. GREGORY BARNES
ALBERT V. CARR, JR.
ANNE W. COTTINGHAM
KATHLEEN A. COX
ROBERT H. CULP
PETER G. FLYNN
WILLIAM J. FRANKLIN
STEVEN P. FRANTZ
FREDERIC S. GRAY
DOUGLAS G. GREEN
DAVID B. RASKIN

August 22, 1980

The Honorable Robert Lazo
Chairman
Atomic Safety and Licensing
Board Panel
United States Nuclear
Regulatory Commission
Washington, D. C. 20555

Re: In the Matter of Houston Lighting & Power Company (Allens Creek Nuclear Generating Station, Unit 1) Docket No. 50-466

Dear Mr. Chairman:

At a prehearing conference in the subject docket held pursuant to 10 CFR 2.752 on August 13, 1980, the chair denied a motion submitted by the Applicant to establish a schedule for the commencement of evidentiary hearings. Applicant immediately requested reconsideration of the ruling since it had the effect of deferring the start of hearings in this matter until, at the earliest, sometime in mid-January, 1981.*/ In denying the motion for reconsideration, the chair indicated that the central reason for the extended delay was the unavailability of the Board between November 1, 1980, and mid-January, 1981.**/ The Board explained that even if Applicant and Staff were to withdraw pending motions for summary disposition, the Board's decision to delay the commencement of evidentiary hearings would not be affected because the Board's calendar did not permit it to hold hearings during the latter part of 1980.

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With minor exceptions, all discovery in this proceeding was closed on July 9, 1980. (Discovery on some contentions has been permitted for over a year.) The NRC Staff, after meeting with the Applicant and then with several of the intervening parties, submitted to the ASLB on July 18, 1980, a proposed schedule under which hearings relating to site suitability and environmental matters would have commenced on October 21, 1980, more than three months after the close of discovery. Under this proposed schedule, contentions and Board questions relating to health and safety matters would not have been heard until early 1981. Applicant's motion (copy attached) set forth in some detail the reasons why the proposed schedule did not impose an unfair burden on any party and requested the ASLB to adopt the Staff's proposal.

It is clear that the delay resulting from the Board's ruling at the recent prehearing conference has not been imposed in order to avoid unduly burdening any party. The principal, if not the sole, reason is the conflicting responsibilities of the Board members. Applicant is in no position to assess priorities among the resources available to the Atomic Safety and Licensing Board Panel and, in any event, would not presume to do so. It is a plain fact, however, that the public interest in the timely conduct of this proceeding has not been well served. We do not suggest that past delay in this proceeding is attributable substantially to problems in the Board's availability; however, the Allens Creek proceeding has been awaiting trial for three years since the Board was informed of its reactivation in 1977. At some point a balance must be struck in establishing priorities which gives fair weight to the interests of the applicant utility, its ratepayers and shareholders and, of course, national energy policy.

For these reasons, Houston Lighting & Power Company urges that the members of the Board appointed for this proceeding be relieved of their conflicting responsibilities or that, in all fairness, the Board be reconstituted so that

hearings may begin and be conducted through this fall.

Respectfully submitted,

Jack R. Newman

Jack R. Newman
Attorney for Applicant
Houston Lighting & Power
Company

Attachment

cc (w/attachment):
The Honorable John Ahearne
Howard Shapar, Esquire
Service List