

LAW OFFICES
LOWENSTEIN, NEWMAN, REIS, AXELRAD & TOLL

1028 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20036
202-862-8400

ROBERT LOWENSTEIN
JACK N. 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 R. FRANTZ
FREDERIC S. GRAY
DOUGLAS G. GREEN
ALVIN H. GUTTERMAN
DAVID G. POWELL
DAVID B. RASHIN
TOM TENN.
TOM KEN.

November 5, 1980



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Marshall E. Miller, Esquire
Michael L. Glaser, Esquire
Sheldon J. Wolfe, Esquire
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Gentlemen:

Houston Lighting & Power Company is filing today a Motion for Clarification of the Board's Order of October 24, 1980. Houston requests in its Motion that the Board direct the Public Utilities Board of Brownsville, Texas ("PUB") to file its long overdue summaries of testimony as soon as possible, and in any event, no later than at the same time as the filing of PUB's objections to the proposed license conditions. Houston learned Monday that PUB has construed the Board's action at the October 24, 1980 Pre-hearing Conference as relieving PUB of its obligation to file summaries of testimony. Houston disagrees with this interpretation, and respectfully requests that the Board address this matter on an expedited basis so that all parties and the Board itself may have the opportunity to evaluate PUB's objections with full background knowledge of the presentation that PUB would present if the case were to proceed to trial.

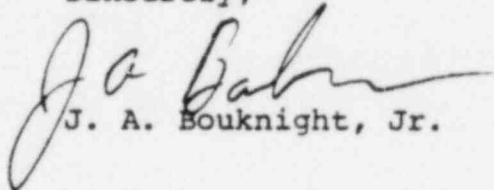
Accordingly, Houston proposes that PUB and any other party that wishes to respond be required to submit their responsive pleadings by November 6, 1980, and that the Board issue its decision shortly thereafter.

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Marshall E. Miller, Esq.
Michael L. Glaser, Esq.
Sheldon J. Wolfe, Esq.
November 5, 1980
Page Two

Copies of this letter and the attached motion are being hand-delivered to all parties to the South Texas Project proceeding.

Sincerely,


J. A. Bouknight, Jr.

JAB:adm

Attachment

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
)
HOUSTON LIGHTING & POWER COMPANY,) Docket Nos. 50-498A
 et al.) 50-499A
)
(South Texas Project, Units 1)
 and 2))

MOTION OF HOUSTON LIGHTING & POWER COMPANY FOR
CLARIFICATION OF THE BOARD'S ORDER OF OCTOBER 24, 1980

The Public Utilities Board of Brownsville, Texas ("PUB"), a complainant party in this proceeding, was ordered by the Board to file no later than October 8, 1980, its trial brief, lists of witnesses and exhibits, and summaries of testimony. PUB failed to file such documents on the appointed date. In the days and weeks since October 8, PUB has filed its trial brief and lists of its witnesses and exhibits.^{*/} However, PUB still has not filed its summaries of testimony, and those summaries are now approximately four weeks overdue.

Houston telephoned counsel for the PUB on November 3, 1980, to inquire as to the status of those witness summaries. Counsel for PUB stated that he interpreted the Board's action at the

^{*/} Houston received PUB's Initial Trial Brief and Lists of Witnesses and Exhibits on October 9, 1980, and the First Supplement to PUB's Trial Brief on October 16, 1980. In its brief, PUB stated that it was continuing forthwith to prepare its summaries of testimony. Initial Trial Brief at 6.

October 24, 1980 Prehearing Conference as relieving PUB of its obligation to comply with the Board's prior order requiring the filing of witness summaries. Houston respectfully disagrees with that interpretation. Because PUB's failure to file witness summaries will impair the ability of the Board and all other parties to evaluate PUB's criticisms of the proposed license conditions in view of the supporting evidence that PUB intends to present at a hearing, Houston hereby moves for a clarification of the Board's oral ruling of October 24.

The Board directed PUB to file its objections to the proposed license conditions by this Friday, November 7, ^{*}/ and further directed all other parties to submit a responsive pleading explaining how the conditions serve the public interest two weeks thereafter. (Tr. 1258). To accommodate this change in procedures, the Board suspended the remaining procedural dates announced in its order of September 8. (Tr. 1263-64).^{**}/

However, nothing in the transcript of the Prehearing Conference suggests that the Board intended that PUB, having chosen simply to ignore the requirements of the Board's prior order, should now be relieved from its obligation to file summaries of testimony.

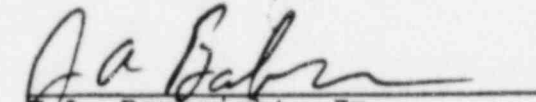
^{*}/ Houston has been apprised that counsel for PUB construes the Board's order as not requiring the submission of PUB's objections until November 10, 1980.

^{**}/ The Prehearing Conference oral ruling suspended the previously announced schedule for the Final Prehearing Conference and the commencement of the evidentiary hearing. The obligation of Houston and the other parties to file responsive briefs, lists of witnesses and exhibits, and summaries of testimony had already been suspended by the Board's Order of October 14, 1980.

PUB's present position is not consistent with the Board's objective in ordering further comments on the proposed license conditions. That objective, as explained by Mr. Glaser, is to have enough information to make a judgment on the license conditions and on whether PUB is entitled to a hearing. (Tr. 1262-63). Before rendering its decision as to whether PUB is entitled to a hearing, the Board is entitled to know what testimony PUB witnesses would present if there were a hearing. Furthermore, in order to be able to comment on how the proposed license conditions address any matters of legitimate concern to PUB, parties such as Houston must know what evidentiary support PUB can muster for its arguments.

The question of whether any genuine issues of material fact remain for trial may be quickly resolved once PUB files the description of its case, which the Board ordered PUB to file on October 8, 1980. Houston finds no support in the transcript from the October 24 Prehearing Conference for PUB's assertion that the Board relieved PUB from its long-standing obligation to file summaries of testimony. Accordingly, Houston respectfully requests that the Board clarify its decision of October 24 by directing PUB to file summaries of testimony as soon as possible, and in any event no later than at the same time as the filing of PUB's objections to the proposed license conditions.

Respectfully submitted,


S.A. Bouxnight, Jr.
Counsel for Houston Lighting &
Power Company

OF
ts
ll Plaza
xas 77002

Lowenstein, Newman, Reis,
Axelrad & Toll
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036

DATED: November 5, 1980

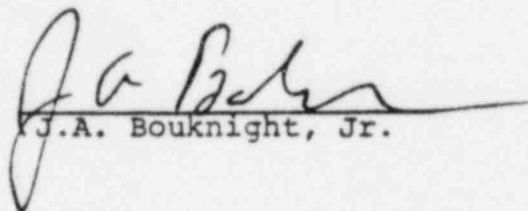
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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(South Texas Project, Units 1)
 and 2))

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing MOTION OF HOUSTON LIGHTING & POWER COMPANY FOR CLARIFICATION OF THE BOARD'S ORDER OF OCTOBER 24, 1980 were served upon the following persons, by hand*, or by deposit in the United States Mail, first class postage prepaid, this 5th day of November, 1980.


J.A. Bouknight, Jr.

*Marshall E. Miller, Esquire
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

*Michael L. Glaser, Esquire
1150 17th Street, N.W.
Washington, D.C. 20555

*Sheldon J. Wolfe, Esquire
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

*Chase R. Stephens, Supervisor (20)
Docketing and Service Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Jerome D. Saltzman
Chief, Antitrust and Indemnity
Group
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

J. Irion Worsham, Esquire
Merlyn D. Sampels, Esquire
Spencer C. Relyea, Esquire
Worsham, Forsyth & Sampels
2001 Bryan Tower, Suite 2500
Dallas, Texas 75201

Jon C. Wood, Esquire
Matthews, Nowlin, Macfarlane
& Barrett
1500 Alamo National Building
San Antonio, Texas 78205

Charles G. Thrash, Jr., Esquire
E.W. Barnett, Esquire
Theodore F. Weiss, Esquire
J. Gregory Copeland, Esquire
Baker & Botts
3000 One Shell Plaza
Houston, Texas 77002

R. Gordon Gooch, Esquire
Steven R. Hunsicker, Esquire
Baker & Botts
1701 Pennsylvania Avenue
Washington, D.C. 20006

*Fredric D. Chanania, Esquire
Michael B. Blume, Esquire
Ann P. Hodgdon, Esquire
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Roff Hardy
Chairman and Chief Executive
Officer
Central Power and Light Company
Post Office Box 2121
Corpus Christi, Texas 78403

J.K. Spruce, General Manager
City Public Service Board
Post Office Box 1771
San Antonio, Texas 78296

Mr. Perry G. Brittain
President
Texas Utilities Generating Company
2001 Bryan Tower
Dallas, Texas 75201

G.W. Oprea, Jr.
Executive Vice President
Houston Lighting & Power Company
Post Office Box 1700
Houston, Texas 77001

R.L. Hancock, Director
City of Austin Electric Utility
Post Office Box 1086
Austin, Texas 78767

*Joseph Gallo, Esquire
Robert H. Loeffler, Esquire
David M. Stahl, Esquire
Isham, Lincoln & Beale
1120 Connecticut Avenue, Suite 325
Washington, D.C. 20036

Michael I. Miller, Esquire
James A. Carney, Esquire
Sarah Welling, Esquire
Martha E. Gibbs, Esquire
Isham, Lincoln & Beale
One First National Plaza
Suite 4200
Chicago, Illinois 60603

Don R. Butler, Esquire
211 East Seventh Street
Austin, Texas 78701

Mr. William C. Price
Central Power & Light Company
Post Office Box 2121
Corpus Christi, Texas 78403

Mr. G. Holman King
West Texas Utilities Company
Post Office Box 841
Abilene, Texas 79604

Jerry L. Harris, Esquire
Richard C. Balough, Esquire
City of Austin
Post Office Box 1088
Austin, Texas 78767

*Joseph B. Knotts, Jr., Esquire
Nicholas S. Reynolds, Esquire
C. Dennis Ahearn, Esquire
Debevoise & Liberman
1200 Seventeenth Street, N.W.
Washington, D.C. 20036

Don H. Davidson
City Manager
City of Austin
P.O. Box 1088
Austin, Texas 78767

Jay Galt, Esquire
Looney, Nichols, Johnson & Hays
219 Couch Drive
Oklahoma City, Oklahoma 73102

Knoland J. Plucknett
Executive Director
Committee on Power for the South-
west, Inc.
5541 East Skelly Drive
Tulsa, Oklahoma 74135

John W. Davidson, Esquire
Sawtell, Goode, Davidson & Tioili
1100 San Antonio Savings Building
San Antonio, Texas 78205

*Douglas F. John, Esquire
McDermott, Will and Emery
1850 K Street, N.W.
Washington, D.C. 20006

*Kenneth M. Glazier, Esquire
David A. Dopsovic, Esquire
Frederick H. Parmenter, Esquire
Susan B. Cyphert, Esquire
Nancy A. Luque, Esquire
Robert Fabrikant, Esquire
Energy Section Antitrust Division
U.S. Department of Justice
P.O. Box 14141
Washington, D.C. 20044

Morgan Hunter, Esquire
Bill D. St. Clair, Esquire
McGinnis, Lockridge & Kilgore
Fifth Floor
Texas State Bank Building
900 Congress Avenue
Austin, Texas 78701

W.S. Robson
General Manager
South Texas Electric Cooperative,
Inc.
Post Office 151
Nursery, TX 77976

*Robert C. McDiarmid, Esquire
George Spiegel, Esquire
Robert A. Jablon, Esquire
Marc R. Poirier, Esquire
Spiegel & McDiarmid
2600 Virginia Avenue, N.W.
Suite 312
Washington, D.C. 20037

Leon J. Barish
Texas Attorney General's Office
Post Office Box 12548
Austin, Texas 78711

William H. Burchette, Esquire
Frederick H. Ritts, Esquire
Law Offices of Northcutt Ely
Watergate 600 Building
Washington, D.C. 20036

Tom W. Gregg, Esquire
Post Office Box Drawer 1032
San Angelo, Texas 76902

Leland F. Leatherman, Esquire
McMath, Leatherman & Woods, P.A.
711 West Third Street
Little Rock, Arkansas 72201

Paul W. Eaton, Jr., Esquire
Hinkle, Cox, Eaton, Coffield & Hensley
600 Henkle Building
Post Office Box 10
Roswell, New Mexico 88201

Robert M. Rader, Esquire
Conner, Moore & Corber
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

W.N. Woolsey, Esquire
Kleberg, Dyer, Redford & Weil
1030 Petroleum Tower
Corpus Christi, Texas 78474

Donald M. Clements, Esquire
Gulf States Utilities Company
Post Office Box 2951
Beaumont, Texas 77704

Dick Terrell Brown, Esquire
800 Milam Building
San Antonio, Texas 78205

Robert E. Cohn, Esquire
Richard J. Leidl, Esquire
Butler, Binion, Rice, Cook
& Knapp
1747 Pennsylvania Avenue, N. W.
Ninth Floor
Washington, DC 20006

*Stephen H. Lewis, Esquire
U. S. Nuclear Regulatory Commission
Office of the Executive Legal Director
Washington, DC 20555

*Robert A. O'Neill, Esquire
Miller, Balis & O'Neil, P.C.
776 Executive Building
1030 Fifteenth Street, N.W.
Washington, D.C. 20005