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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
HOUSTON LIGHTING AND POWER COMPANY,)
ET AL.)
(South Texas Project, Units 1 and 2))

Docket Nos. 50-498
50-499

NRC STAFF RESPONSE TO CCANP "REQUESTS FOR INFORMATION" AND MOTION FOR ADDITIONAL TIME

I. INTRODUCTION

Representatives of Citizens Concerned About Nuclear Power (CCANP) have filed two "Request[s] for Information" from the Staff in this proceeding.^{1/} For the reasons set forth below, the NRC Staff is requesting to and including December 8, 1980, within which to further respond to the requests for information.

II. DISCUSSION

CCANP has requested the following "information" from the Staff:

1. " * * * the names of those inspectors who supplied information about harassment at the South Texas Nuclear Project and the names of those employees who harassed and intimidated them."^{2/}

^{1/} "[CCANP] Request About Information From NRC Staff" filed by Ms. Barbara A. Miller on October 28, 1980 and "Request for Information From The Nuclear Regulatory Commission Staff" filed by Ms. Kim Eastman on October 24, 1980 (postmarked November 1, 1980).

^{2/} Request filed by Ms. Miller. See fn. 1, *supra*. Although the request does not so specify, the Staff assumes the words "inspection" and "employees" refer to persons in the employ of Applicant and/or Brown and Root.

2. " * * * a copy of the closed door statement made by Victor Stello following the NRC investigation which led to the Show Cause Order;" and " * * * items identified by NRC investigators in this investigation which were not included in the Show Cause Order." ^{3/}

The Atomic Safety and Licensing Appeal Board's relatively recent decision in Pennsylvania Power & Light Company et al. (Susquehanna Steam Electric Station, Units 1 and 2), ALAB-613, 12 NRC ____ (September 23, 1980), summarizes, at pp. 7-8 of the slip opinion, the relevant provisions of the Commission's regulations as they relate to formal discovery requests directed to the Staff. Since the "requests for information" were filed by lay representatives of CCANP, the Staff sets forth below the verbatim discussion by the Appeal Board in Susquehanna regarding discovery requests directed to the Staff:

Discovery against the staff is on a different footing. With limited exceptions, Commission regulations make staff documents that are relevant to licensing proceedings routinely available in the NRC Public Document Room. 10 C.F.R. §2.790(a). The contemplation is that these "should reasonably disclose the basis for the staff's position," ^{8/} thereby reducing any need for formal discovery. Reflective of that policy, the Rules of Practice limit documentary discovery against the staff to items not reasonably obtainable from other sources, 10 C.F.R. §2.744; require a showing of "exceptional circumstances" to depose staff personnel, 10 C.F.R. §§2.720(h) and 2.740a(j); and allow interrogatories addressed to the staff only "where the information is necessary to a proper decision in the case and not obtainable elsewhere." ^{9/} See 10 C.F.R. §2.720(h)(2)(ii). In addition, the licensing board's advance permission is needed to depose staff members or to require the staff to answer written interrogatories. Ibid. [Emphasis added.]

^{8/} NRC "Statement of General Policy and Procedure: Conduct of Proceedings for the Issuance of Construction Permits and Operating Licenses * * *," 10 C.F.R. Part 2, App. A, §IV(d).

^{9/} Ibid.

^{3/} Request filed by Ms. Eastman. See fn. 1, supra.

CCANP has not attempted in its two filings to comply with the relevant provisions of 10 C.F.R. Part 2, summarized above by the Appeal Board in Susquehanna, as regards discovery requests directed to the Staff.^{4/} However, Staff counsel will forward the requests to the Executive Director for Operations, as if properly filed under 10 C.F.R. §2.720, and ask him for a reply. Accordingly, the Staff will not be in a position to respond to the subject requests until December 8, 1980. The Staff requires this time to process these requests in accord with 10 C.F.R. §2.720, and properly respond to them.

III. CONCLUSION

CCANP's "requests for information" detailed above do not comply with the provisions of 10 C.F.R. Part 2 as regards formal discovery requests directed to the Staff. However, Staff counsel will forward the requests for information to the Executive Director for Operations as if the request has been made under 10 C.F.R. §2.720. The Staff requests to and including December 8, 1980, within which to substantively respond to the requests in question.

Respectfully submitted,

Bernard M. Bordenick

Bernard M. Bordenick
Counsel for NRC Staff

Dated at Bethesda, Maryland,
this 17th day of November, 1980.

^{4/} Staff counsel has for the convenience of Ms. Miller and Ms. Eastman forwarded, with their copies of this Staff filing, a copy of 10 C.F.R. Part 2.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO CCAI'S 'REQUESTS FOR INFORMATION' AND MOTION FOR ADDITIONAL TIME" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk by deposit in the Nuclear Regulatory Commission internal mail system, this 17th day of November, 1980:

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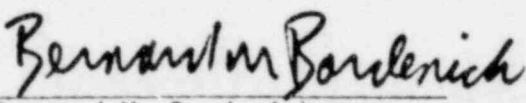
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