

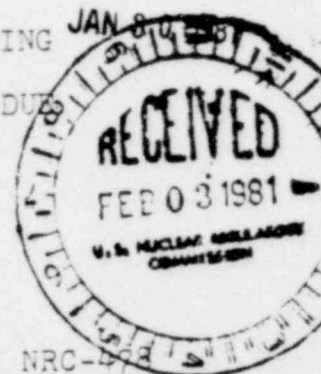
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY & LICENSING BOARD

In the Matter of
Houston Lighting & Power Company
Allens Creek Nuclear
Generating Station
Unit No. 1

Docket No. 50-466

- A. MOTION FOR REVERSAL OF HEARING BOARD ACTION DENYING CROSS-EXAMINATION BY INTERVENORS OF APPLICANT'S WITNESSES' DIRECT TESTIMONY AND THEREBY DENYING DUE PROCESS. RE: RULES OF PRACTICE PART II MAY 78, APPENDIX A III, (a),(3). (page 2-30)
- B. INTERLOCUTORY APPEAL PER 2.730 (f)
- C. CERTIFICATION OF QUESTION PER 2.718 (i)
- D. DIRECTED CERTIFICATION RE: SEABROOK DECISION I NRC-1979



On the afternoon of 26 January 1981, during the hearing of this case, Judge Wolfe ruled on an objection by Applicant's attorney based on the Appeal Board's rulings in the Prairie Case: 7 NRC, 528-53; 8 NRC, 458; 8 NRC, 857; 8 NRC, 1175, that the intervenor could NOT cross examine on matters not related to their own contention. Hearing Record P 3845 (13-20), P 3844 (11-19). If this ruling is applied at this stage in this hearing, it will:-

- a) Change the "ground rules" for this hearing in "mid session"
- b) Be contrary to the stated rights of intervenors
NRC Rules & Regs. A III, (a),(3).
- c) Be a denial of due process to all intervenors
- d) Fail to recognize the interest of intervenors after the closure date for making contentions. Several intervenors

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had contentions regarding Allens Creek Nuclear Generating Station which were not submitted by them because the contention was being competently and properly submitted by other intervenors in this case. To have submitted them would have been a duplication and serve no useful purpose

- e) That there have been at least 2 other occasions when the Board in this hearing denied intervenor the right to properly cross-examine Applicant's witness's direct testimony.

These obstructions to the due process and denial of NRC rules of procedure occurred to Mr. Scott, intervenor, on Tuesday 20 January 1981 during the cross-examination of Dr. Schlicht and Thursday 22 January 1981 during the cross-examination of Dr. Armstrong.

No good and proper reason consistent with the NRC rules of procedure was given by the Board for these denials. These irregular practices and bias in ruling by this Board destroys public confidence in the hearing process and NRC decisions.

ACTIONS REQUESTED OF THE APPEAL BOARD

- I. Rule that the Board ruling denying intervenors the right to cross-examine any and all witnesses on their direct testimony be reversed and the applicability to this hearing of the NRC Rules and Regulations including Appendix A III, (a), (3) be upheld.

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II. Direct that witness, Dr. Schlicht, be recalled to the witness stand that his cross-examination, preemptorily terminated by the Board ruling, be continued to completion.

Respectfully submitted,

D. Marrack

D. Marrack, Intervenor

January 29, 1981

EC

Sheldon J. Wolfe, Chairman
Dr. E. Leonard Cheatum
Mr. Gustave A. Linenberger
Docketing & Service Section
J. Gregory Copeland

Atomic Safety & Licensing
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