

May 6, 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
HOUSTON LIGHTING AND POWER COMPANY ) Docket Nos. 50-498  
ET AL. ) 50-499  
(South Texas Project, Units 1 & 2) )

NRC STAFF RESPONSE TO ATTORNEY GENERAL OF  
TEXAS' MOTION FOR EXTENSION OF DISCOVERY DEADLINE

I. INTRODUCTION

On April 21, 1983, the Attorney General of Texas ("Texas") filed a motion seeking a ninety-day extension of the discovery deadline for Phase II of this proceeding from April 25, 1983 to July 25, 1983. For the reasons set forth below, the NRC Staff opposes the request.

II. DISCUSSION

The relevant facts giving rise to the extension request are all set forth in Texas' Motion. Texas was admitted to this proceeding as an interested state pursuant to 10 C.F.R. § 2.715(c) on April 3, 1979. In June of 1982, the Licensing Board determined that discovery for Phase II would last for ninety days. The triggering event for the commencement of discovery, the issuance of the NRC Staff's review of the Quadrex Report (I&E Report 82-12), occurred on January 17, 1983. Four days before the

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Board-ordered ninety-day discovery period was to end, Texas filed its motion for a ninety-day extension.

As grounds for the extension, Texas cites the voluminous documents associated with Phase II and various time commitments associated with the taking of office by a new Attorney General in January of 1983. These asserted grounds overlook the central reason for the inability of Texas to prepare its discovery requests by April 25th; although admitted to the proceeding more than four years ago, Texas has (for reasons of its own) decided not to become actively involved in the case before now.

Texas did not argue in June of 1982 that three months would be an overly restrictive period for discovery. Further, although the documents involved in Phase II are quite lengthy, only I&E Report 82-12 has not been available to Texas for substantially more than three months. Of the other four documents cited by Texas, the Quadrex Report was made available in September of 1981, Bechtel's preliminary assessment of Quadrex was made available in March of 1982, Bechtel's final review of Quadrex (EN-619) was made available in August of 1982, and Brown and Root's assessment of Quadrex was made available in May of 1982.

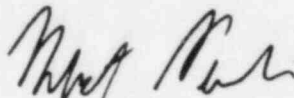
It is clear from its Motion that Texas wishes to change the nature of its participation in Phase II from an inactive role to a more active role. Texas is certainly free to play a more active part in this proceeding. It is settled law, however, that once an interested state is admitted to a proceeding, it "must observe the procedural requirements applicable to other participants." Gulf States Utilities Company (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760, 768 (1977), citing ALAB-317, 3 NRC 175, 180,

n.7 (1976). Texas is now confronted with a situation where, through its own inaction, the State has failed to take advantage of a discovery period that has now come to an end. The circumstances simply do not warrant the grant of the requested extension.

III. CONCLUSION

For the reasons presented above, the Motion by Texas for a ninety-day extension of discovery should be denied.

Respectfully submitted,



Robert G. Perlis  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 6th day of May, 1983



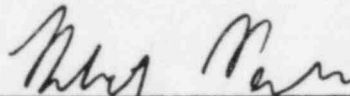
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