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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Charles Bechhoefer, Chairman
Dr. James C. Lamb
Mr. Ernest E. Hill

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In the Matter of

HOUSTON LIGHTING AND
POWER COMPANY, ET AL.

(South Texas Project
Units 1 and 2)

Docket Nos. STN 50-498 OL
STN 50-499 OL

October 30, 1981

MEMORANDUM AND ORDER
(Scheduling Prehearing Conference and Evidentiary
Hearing on Transition Period Construction Activities)

By letter dated October 16, 1981, from the Executive Vice President of Houston Lighting and Power Co. to the Director, Region IV, MRC, the Applicants requested NRC Staff concurrence in a plan for continuing safety-related work during the transition period in which certain of the project's engineering and construction management responsibilities are to be shifted from Brown & Root, Inc. (B&R) to Bechtel Corp.^{1/} The Board had been

^{1/} A copy of this letter was served on the Licensing Board and parties to this proceeding. As used in this Memorandum and Order, transition period refers to the period during which the work items spelled out in the attachments to the October 16 letter are to be carried out and is not intended to encompass the possibly different time period in which the entire transition from B&R to Bechtel is to occur.

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preliminarily advised of the proposed organizational changes by the Applicants' letter of September 24, 1981. In a telephone conference call on October 7, 1981, however, the Board also was advised that the extent of the transition from B&R to Bechtel had not been determined. Specifically, we were informed that it was possible that construction as well as design engineering and construction management responsibilities would also be transferred from B&R to Bechtel. See Memorandum and Order (Concerning Changes in Schedule for Hearings), dated October 8, 1981, at p. 2.

According to the October 16, 1981 letter, the transition period during which the specified safety activities are to be undertaken will extend for about 4 months. Depending upon the timing of NRC Staff review of the transition period activities, those activities could be completed as early as mid-February, 1982.

The decision whether to approve the plan for transition period construction activities, as requested in the Applicants' letter of October 16, 1981, is initially within the province of the NRC Staff. But because of the safety significance of the work to be performed, the adequacy of the plan for performing this work has a clear bearing on whether, or on what terms, the South Texas Project should be licensed. Cf. 10 C.F.R. § 2.717(b). The adequacy of that plan also may have a significant impact on the resolution of some of the contentions and other issues which are now before this Board.

For example, transition work is to be performed in particular areas with respect to which testimony has already been presented in this proceeding, such as containment dome concrete, containment shell concrete,

and certain ASME and AWS welds. These items, among others, were the subject of comments and criticism in the report prepared by Quadrex Corporation ("Design Review of Brown and Root Engineering Work for the South Texas Project," May, 1981), transmitted to the Board on September 28, 1981.

Because of the safety significance of the transition work and the probability that it will have a bearing on the findings and conclusions we must reach in this operating license proceeding, we wish to be apprised of the means by which the Applicants (including their contractors Bechtel and, if applicable, B&R) plan to maintain quality with respect to the construction of safety-related structures and equipment during the transition period, and the means by which the NRC Staff plans to monitor the Applicants' commitments in this regard. Specifically, we call upon the Applicants and/or Staff, as appropriate, and other parties if they wish, to address the following subjects:

1. the general responsibilities during the transition period of HL&P, Bechtel and B&R with respect to the safety-related work specified in the October 16 letter;
2. the problem of assuring that adequate and competent construction and QA/QC personnel remain on the job or are brought to the job (as applicable) during the transition period;
3. the morale during the transition period of QA and QC personnel now employed by B&R, assuming either partial or full replacement of B&R;

4. the likelihood that problems related to safety and licenseability pointed out by the Quadrex report would (if they exist and to the extent they might affect transition-period construction as specified in the October 16 letter) be continued or even exacerbated during the transition period;
5. the conformance of the items of safety-related transition period construction activities (Attachment A to October 16, 1981 letter) to the criteria for performing transition period construction set forth in the body of the October 16 letter. In particular, footnote 1 to Attachment A suggests that six work items do not conform to criterion 2. In addition, based on issues raised in this proceeding and still not resolved, several work items appear not to conform with criterion 1;
6. the possible safety significance of transition work designated as non-safety-related (Attachment B to October 16, 1981 letter). In that connection, see Quadrex report, Section 3.1(d), vol. 1, pp. 3-5 and 3-6;
7. the degree to which the quality of safety-related work to be performed during the transition period can later be verified; and
8. the relative safety implications of (a) stopping all safety-related work and work which might affect safety-related structures or equipment; (b) continuation of only such transition work outlined in the letter dated October 16, 1981 as had already been commenced as of that date; or (c) continuation of work as proposed in the October 16, 1981 letter.

In posing these areas of inquiry for the short term, we wish to stress that we are concerned about the procedures to be followed by the Applicants and Staff to assure the quality of work on items described in the October 16 letter.

For such advice to be meaningful, it must be provided to us at an early date and, in any event, prior to the expiration of the transition period. We therefore are scheduling an evidentiary hearing to commence on Tuesday, December 8, 1981, in Austin, Texas, to consider these questions. We expect the hearing to conclude no later than Thursday, December 10, 1981, and earlier if possible.

To help meet this schedule, we invite (although we do not require) the parties (particularly the Applicants and Staff) to provide prepared testimony, which must be in our hands no later than Wednesday, November 25, 1981. Discovery on the limited issues involving construction during the transition period (which do not encompass the entire Quadrex report) may begin immediately and shall conclude no later than November 18, 1981. If interrogatories are used, they should be filed by November 6, 1981 and served either by personal service or by express mail. Responses must also be served in this fashion. We do not anticipate providing an opportunity in the short term for written proposed findings of fact and conclusions of law on transition-period construction, but we will accept oral statements of the parties' positions at the conclusion of the evidentiary sessions on this

subject.^{2/} To the extent that the prehearing conference referred to in our Memorandum and Order of October 8, 1981 is needed, it will be held on December 3, immediately prior to this hearing.

The issues of what safety-related work should be continued during the transition period and the controls (if any) which NRC may exercise over such work are being considered by the Licensing Board because of the important safety significance of the questions, their bearing on the adequacy of construction of the facility, and the possibility that the quality of at least some of the safety-related work may not be able to be adequately verified after construction has been completed. Although these issues might be viewed as being raised by the Board sua sponte, their resolution is essential to provide an adequate record for us to rule on the broader QA matters which are before us. We are raising these questions solely in the context of our operating license authority, as enhanced by the Commission's broad instructions to us in CLI-80-32, 12 NRC 281 (1980), which pointed out that this operating license hearing could serve the goal of a "full airing of all relevant information regarding the safety of the nuclear plant". Id. at 290. In the Board's view, the adequacy of, and controls to be exercised over, safety-related transition work falls well within that grant of authority. In raising these issues, however, we recognize that the halt of some or all safety-related work during the transition period is a possible outcome and that there is some question of whether we possess stop-work

^{2/} We will establish time limits for such statements after we ascertain the general positions to be taken by various parties during the evidentiary presentations.

authority. If we were to determine that a work stoppage in whole or in part were necessary, we would consider various means of effectuating that determination, including certification to the Commission.^{3/}

Because this Memorandum and Order raises issues which might be deemed to be raised sua sponte by the Board, we are transmitting copies to the Commission and to the General Counsel, in accordance with the Commission's instructions appearing in the Secretary's memorandum of June 30, 1981 (subject: "Raising of Issues Sua Sponte in Adjudicatory Proceedings").^{4/}

For the foregoing reasons, it is, this 30th day of October, 1981

ORDERED

1. That an evidentiary hearing to consider the questions outlined herein will convene on December 8, 1981, in Austin, Texas, at Austin Public

^{3/} On October 29, 1981, we received copies of a CEU Petition to Suspend Construction (directed to the Commission) and a CEU Motion to Suspend Construction (directed to this Board). As we informed the parties by telephone on October 29, this Memorandum and Order, which encompasses some of the matters raised by CEU, has been under preparation since October 19, when we received the Applicants' October 16 letter, and in no way has been influenced by or is intended to respond to either of CEU's filings.

^{4/} In relevant part, that Memorandum provides: "When a Licensing Board * * * raises an issue sua sponte in an Operating License proceeding, it shall issue a separate order making the requisite findings, briefly state its reasons for raising the issue; and it shall forward a copy of that order to the Office of the General Counsel and to the Commission * * * ."

[T]he Boards shall continue to make the initial determination of whether a Board question is an exercise of sua sponte authority or a question asked to ensure the completeness of the record on an admitted contention. Furthermore, the fact that an issue has been raised sua sponte, and that the Commission will be advised of that action by the Office of the General Counsel through its monitoring of adjudicatory proceedings, would not provide a basis for any party to fail to meet its obligation to respond expeditiously to the Board's questions."

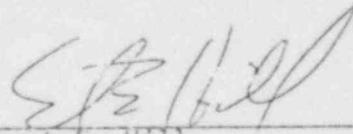
Library Auditorium, Fourth Floor, 800 Guadalupe, Austin, Texas 78701. The hearing will commence at 9:30 a.m. or, if a prehearing conference is held, immediately following the prehearing conference. (On December 8 and 9, the hearing will commence at 9:15 a.m.)

2. That discovery on these questions may commence immediately and shall conclude by November 18, 1981, and that interrogatories (if used) are to be governed by the standards set forth in this opinion.

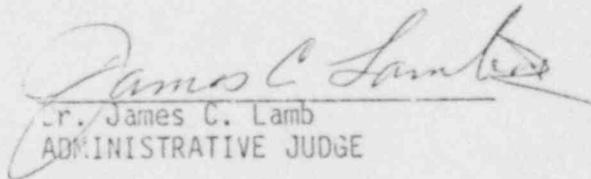
3. That prepared testimony, if it is to be filed, shall be delivered to the Board by November 25, 1981.

4. That a prehearing conference, to the extent necessary, will be held immediately prior to the evidentiary hearing, at 9:30 a.m. on December 8, 1981.

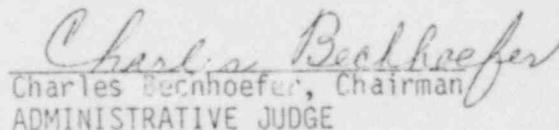
THE ATOMIC SAFETY AND
LICENSING BOARD



Ernest E. Hill
ADMINISTRATIVE JUDGE



Mr. James C. Lamb
ADMINISTRATIVE JUDGE



Charles Bechnoefur, Chairman
ADMINISTRATIVE JUDGE

Issued at Bethesda, Maryland.