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November 23, 1981

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Ernest E. Hill
Administrative Judge
Lawrence Livermore Laboratory
Post Office Box 808, L46
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Re: Houston Lighting & Power Co. et al.
South Texas Project, Units 1 & 2,
Docket Nos. STN 50-498, STN 50-499

Gentlemen:

These views are filed by Applicants pursuant to the Board's Order of October 8, 1981, ("Concerning Changes in Schedule for Hearings") which requires that "all parties will file a written status report with the Board on or before November 23, 1981" with respect to the further conduct of this expedited proceeding.

Efforts were undertaken by Applicants and NRC Staff to formulate views in which all parties could concur. These efforts were unsuccessful.



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The discussion below presents Applicants' views on (1) how the issues should be restructured to take into account the recent changes on the project and the conduct of discovery with respect thereto, (2) the desirability of postponing consideration of the quality assurance program for plant operations, and (3) the order of presentation of witnesses in the expedited hearing.

I. Restructured Contentions

A. Scope of the Expedited Proceeding

The issues admitted into the expedited proceeding are derived from the mandate of CLI-80-32. In that Memorandum and Order the Commission rejected a request for a hearing regarding an Order to Show Cause related to construction QA/QC issues. The Commission recognized that an early hearing was planned on Intervenor's contentions regarding construction QA/QC matters and directed that the hearing consider the broader ramifications of those matters. Accordingly, Issues A-F were set by the Board with the intent of holding a hearing on the matters mandated by the Commission, i.e., HL&P's character and competence to operate STP in light of the QA/QC program for construction activities and Applicants' plans for eventual plant operation. Other matters should not be heard in the expedited phase of the OL proceeding on STP unless they are essential to a determination of such issues.

With respect to any new matter that has arisen since Issues A-F were admitted, in the view of Applicants two criteria must be addressed in determining whether such new matter should be heard in the expedited proceeding:

- (1) Is the matter within the wording and intent of the admitted issues?
- (2) Would hearing such matter be consistent with the completion of the proceeding on an expedited basis? If not, can the

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matter properly be relegated to a subsequent phase of the proceeding?

There are two new matters that have arisen recently which we understand that CCANP (and perhaps CEU) will seek to have heard in the expedited proceeding either under the alleged scope of the existing issues or through the admission of new contentions:*/

- (1) replacement of Brown & Root (B&R) by Bechtel as the architect-engineer and construction manager and replacement of B&R as constructor by a company not yet selected, and
- (2) the report entitled "Design Review of Brown and Root Engineering Work for the South Texas Project" prepared for HL&P by Quadrex Corporation (the "Quadrex Report").

For the reasons set forth below, Applicants believe that the replacement of B&R should be reflected in a modification of Issue D. However, matters related to the Quadrex Report should not be considered in this expedited hearing.

B. Replacement of B&R

As to the replacement of B&R in its various functions,

*/ Neither CCANP nor CEU has informed Applicants of the specific matters they will seek to litigate. As discussed in Applicants' November 13, 1981, brief regarding proposed new contentions, the admission of new contentions at this stage in the proceeding depends on a balancing of the five factors listed in 10 CFR § 2.714(a). Good cause for late filing is only one of the five factors. Applicants cannot address those five factors until Intervenor move for admission of specific contentions.

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it is clear that Issue D cannot be decided without reviewing the QA/QC Program to be implemented by Bechtel and the contractor selected for construction. Evidence on this matter can be heard without significant delay since a revised QA/QC Program Description reflecting the roles and practices of each principal contractor and HL&P is scheduled to be filed by December 11. Testimony on this subject can thus be heard consistent with the goal of this expedited proceeding -- a timely partial initial decision on Issues A-F as established by the Board. Issue D should be amended as set forth in the attachment to this letter to accommodate this new matter. The subject, however, is not within the scope of any other issue.

Applicants propose that any discovery regarding the revised QA/QC Program commence immediately and conclude by December 21, 1981. We recognize that, if the decision with respect to a constructor is delayed, an appropriate extension of the discovery period may be necessary.

C. Quadrex Report

Consideration of the Quadrex Report in this expedited hearing would be inconsistent with the criteria discussed above:

(1) Such consideration would substantially delay completion of this expedited hearing. HL&P anticipates that review and resolution of the concerns raised in the Quadrex Report will take at least six months and may take longer. To delay this proceeding pending completion of that review would be totally inconsistent with the concept of an expedited proceeding.

(2) The Commission had in mind construction QA/QC considerations resulting from the Show Cause Order when it ordered this Board to conduct an expedited hearing; its intent clearly did not extend to possible design and engineering concerns which were not reflected in the Show Cause Order nor known to anyone, including the Commission, at that time.

A review of the issues admitted by the Board (Issues A-F) shows that matters of the sort raised in the Quadrex

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Report were not in the Board's contemplation. Matters raised in the Quadrex Report do not fall within the wording or intent of any of the issues. The Quadrex Report deals with possible concerns relating to the design and engineering of STP, not the construction program. Thus, it does not pertain at all to the QA/QC issues resulting from CLI-80-32. Nor is its consideration necessary to the resolution of any specific issue:

(1) It does not fall within Issue A since Quadrex deals with design and engineering, not with alleged false statements regarding backfill placement (clause (1)); nor with the findings in the Notice of Violation and Order to Show Cause (clause (2)); nor with "construction" or "construction activities" (as stated in clauses (3) and (4), respectively). It also follows that since the Report does not fall within the specific questions raised in Issue A, it is outside the scope of the remedial steps under Issue B.

(2) The Quadrex Report does not fall within Issue C since it does not deal with "planned organization for operation" or "management of construction" (clauses (1) and (2), respectively). Likewise, it does not fall within Issue D since it does not deal with "construction QA/QC."

(3) The Report does not fall within the wording of Issue E which is limited to potential defects covered by Section V.A.(2) and (3) of the Order to Show Cause -- specifically those concerning backfill, concrete and welding in place and not engineering questions of the type raised by the Quadrex Report.

(4) The Quadrex Report obviously does not fall within Issue F since it does not deal with the QA Program for Operations.

Since a lengthy review of the Quadrex Report must be completed before Quadrex concerns can be considered in a hearing, and because the concerns associated with the Report are not within the wording or intent of the issues in this expedited hearing, Applicants suggest that hearings, if any, on the Report be deferred to later OL hearings (following completion of the expedited proceeding mandated by the

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Commission's Memorandum and Order (CLI-80-32) and issuance of a partial initial decision thereon). In the interim, the concerns expressed in the Quadrex Report and Bechtel's findings thereon will have been analyzed and the Staff and other parties will have had an opportunity to review the results of the analyses. If there are disagreements or objections as to any aspect of the Report and related analyses, they can be heard at such later OL hearings.

II. Testimony on Operations QA

Applicants believe that taking of testimony on QA/QC for operations (testimony of Staff witness John G. Spraul and HL&P's related testimony of Richard A. Frazar at pp. 1-2, 5, 17-22, 27-28, 34-35 and 46-47 of Applicants' Testimony of Oprea-Goldberg-Dewease-Frazar-Moles)* should be deferred to a later stage in the OL proceeding. Anticipated fuel load dates for the STP are some years off and hearings on operations QA would be premature. Consideration of Issue F should therefore be deferred to later OL proceedings.

However, present plans for operational activities (Applicants' Testimony of Oprea-Goldberg-Dewease-Frazar-Moles (except as indicated in the previous paragraph) and NRC Staff Testimony of Crocker and Allenspach) should be heard at the expedited hearing in order to make the findings necessary for a partial initial decision on Issue C.

III. Witnesses at Expedited Hearing

In light of the change of contractors at STP, it does not appear fruitful for the hearings to focus at length on past events during construction. Accordingly, the record on such matters should be completed expeditiously. Mr. Sinkin

*/ Mr. Moles, who was previously identified as a member of this panel, has assumed new responsibilities within HL&P and is no longer Plant Superintendent. Accordingly, Applicants no longer plan to call him as a witness.

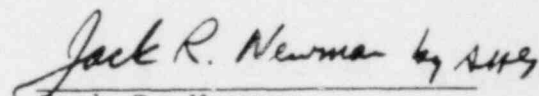
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and Mr. Jordan have advised that CCANP and CEU, respectively, do not intend to present any witnesses at the expedited hearing. HL&P is considering means of expediting the cross-examination of the Staff panels on past events.*/
These Staff panels should be the next witnesses to be heard in this proceeding. Upon completion of the testimony of these Staff panels, Applicants should present their witnesses (to be identified) on the revised construction QA Program and their witnesses on plans for plant operation (Messrs. Oprea, Goldberg, Dewease).

Thereafter, the NRC Staff should present its witnesses on the construction QA/QC Program (Mr. Gilray) and on Applicants' plans for plant operations (Messrs. Crocker and Allenspach).

Applicants suggest that, at the prehearing conference, dates for filing written testimony in response to the amended part of Issue D as set forth in the attachment to this letter be established, taking into account the likely schedule for the conduct and completion of this expedited segment of the OL hearings on STP.

Respectfully submitted,


Jack R. Newman

Attachment

*/
Staff witnesses on matters which occurred before I&E Report 79-19 (William C. Seidle, et al. panel), matters related to the Show Cause Order of April 30, 1980, (Robert E. Shewmaker, et al. panel), and the inspection and enforcement activity following the Show Cause Order (William A. Crossman, et al. panel).

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OF SAN ANTONIO, TEXAS, acting by and
through the City Public Service Board of
the City of San Antonio, CENTRAL POWER
AND LIGHT COMPANY and CITY OF AUSTIN, TEXAS.

cc: Certificate of Service

Attachment

TEXT OF PROPOSED REVISED ISSUE D

ISSUE D

In light of HL&P's prior performance in the construction of the STP as reflected, in part, in the Notice of Violation and Order to Show Cause dated April 30, 1980, and HL&P's responses thereto (filings of May 23, 1980, and July 28, 1980), and actions taken pursuant thereto, do the current HL&P [and], Brown & Root (B&R), Bechtel and construction contractor (if other than Bechtel) construction QA/QC organizations and practices meet the requirements of 10 C.F.R. Part 50, Appendix B; and is there reasonable assurance that they will be implemented so that construction of STP can be completed in conformance with the construction permits and other applicable requirements?

11/23/81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of Applicants' letter to the Atomic Safety and Licensing Board dated November 23, 1981, have been served on the following individuals and entities by deposit in the United States mail, first class, postage pre-paid on this 23rd day of November, 1981.

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