

2/22/82

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
HOUSTON LIGHTING AND POWER COMPANY)
Allens Creek Nuclear Generating)
Station, Unit 1))

Docket No. 50-466



NRC STAFF RESPONSE IN OPPOSITION TO TEXPIRG'S
MOTION FOR ADDITIONAL TIME TO FILE PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW

On February 9, 1982, TexPirg filed a motion requesting an additional thirty (30) days to file its proposed findings of fact and conclusions of law. As indicated in TexPirg's motion, NRC Staff counsel would not orally agree to this extension of time when requested previously by telephone from Mr. James Morgan Scott, Jr., counsel for TexPirg. After reviewing the instant motion and the TexPirg submissions of February 12, 1982, purported to be findings of fact and conclusions of law, we still object to any extension of the originally scheduled filing date and, accordingly, submit that the Board should deny this motion for the reasons set forth below.

First, it is abundantly clear that TexPirg as well as all other intervenors were given ample time to submit proposed findings pursuant to the schedule adopted by the Board (Tr. 19875). This schedule was originally proposed jointly by the Applicant and Staff on October 30, 1981 with full recognition that this record has been lengthy and that all

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parties should be given sufficient time to file findings. See "Joint Motion of Applicant and Staff to Establish a Schedule to File Proposed Findings of Fact and Conclusions of Law", dated October 30, 1981.

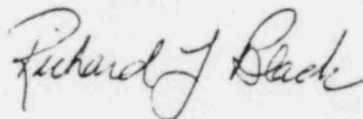
Accordingly, it was proposed to give intervenors 65 days from the close of the record with which to file their findings instead of the 40 days allowed by 10 C.F.R. § 2.754(a)(2). Additionally, the proposed schedule gave intervenors the option of responding to specific Applicant and Staff findings instead of filing original findings of fact on each issue. This option, which is also a deviation from the findings' schedule set forth in 10 C.F.R. § 2.754(a), was intended to substantially lessen the work load of intervenors in writing their findings in light of the extensive record of the proceeding. Thus, the adopted filing schedule has already been extended in consideration of the length of this hearing record and with due regard to fairness to all parties.

Mr. Scott also alludes to the fact that 65 days from the close of the record is not sufficient time to review over 20,000 pages of hearing record. This observation, however, ignores the substantial time available during the course of the proceeding to review the record as it developed and draft proposed findings as each issue was completed. In addition, such an argument implies that TexPirg plans to submit proposed findings on all issues placed in controversy as opposed to those issues sponsored by TexPirg and actively pursued during litigation.

Finally, Mr. Scott has not set forth sufficient good cause to grant the additional 30 days requested. A general allegation that 65 days are not "sufficient" in light of the lengthy record is insufficient to extend

the filing period when viewed in the context of the considerations of fairness that went into the originally adopted filing schedule. Mr. Scott made no argument at the time the schedule was adopted that 65 days would be insufficient and he points to no new development which could not have been reasonably anticipated at the time the Board adopted the schedule. That filing schedule has given the intervenors 25 more days to file proposed findings than that allowed by the Commission's current regulations. Mr. Scott was placed on notice three months ago what the filing schedule was and he should have used his best efforts throughout this period to meet it. Mr. Scott's effort to seek additional time reflects his continued disorganization in this proceeding and a disregard of established filing schedules. In addition, this belated attempt to delay the orderly conclusion of this proceeding is unfair to the other intervenors who have made every effort to meet established schedules and, finally, is against the public interest to ensure an orderly, efficient, and expeditious licensing process. For these very strong reasons, this motion must be denied.

Respectfully submitted,



Richard L. Black
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 22nd day of February, 1982.

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CERTIFICATE OF SERVICE

I hereby certify that copies of NRC STAFF RESPONSE IN OPPOSITION TO TEXPIRG'S MOTION FOR ADDITIONAL TIME TO FILE PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW 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, through deposit in the Nuclear Regulatory Commission's internal mail system, this 22nd day of February, 1982.

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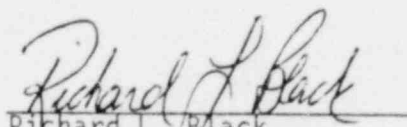
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