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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

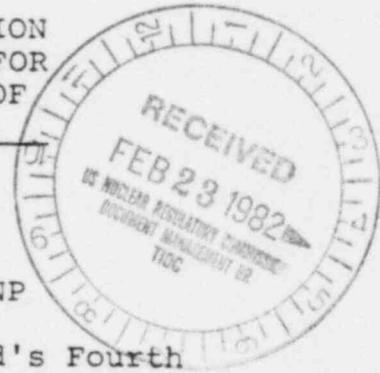
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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
HOUSTON LIGHTING & POWER )  
COMPANY, ET AL. )  
 )  
(South Texas Project, )  
Units 1 and 2) )

Docket Nos. 50-498 OL  
50-499 OL

APPLICANTS' RESPONSE TO CCANP MOTION  
FOR RECONSIDERATION OF SCHEDULING FOR  
HEARINGS ON APPLICANTS' HANDLING OF  
THE QUADREX REPORT



Statement

In its motion dated February 10, 1982, CCANP seeks reconsideration of a portion of this Board's Fourth Prehearing Conference Order (December 16, 1981), concerning the sequence and scheduling of hearings on certain matters related to the "handling" of the so-called Quadrex Report. Applicants oppose the CCANP motion on the grounds that CCANP has not asserted any error of fact or law nor cited any relevant new circumstance which might serve as the basis for a motion to reconsider.\*

Argument

The CCANP motion in no way challenges this Board's rationale for its determination that issues regarding the "handling of

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\*/ An attachment to the motion was a lengthy document entitled "Chronology of the Alleged Quadrex Conspiracy"; Applicants do not respond here to that document except to note that the document is replete with CCANP's errors of commission and omission.

the Quadrex Report" will be considered in the second phase of this hearing along with the issues regarding the substance of the Report. The rationale for that determination was that a hearing on the handling of the Report "was not possible . . . without investigating the substance" of the Report. (Order at 5). CCANP's motion offers no basis for reconsidering that determination.

The inseparability of the substance of the Quadrex Report from its handling in this proceeding is highlighted in CCANP's own pleading:

- ° CCANP proposes that the review of the handling of the Quadrex Report include "such questions as whether findings in Quadrex fit the 50.55(e) description as reportable." (Motion at 2) This obviously requires analysis of the substance of the findings.
- ° CCANP would pursue its allegations of "conspiracy" by examining the Quadrex Report in the light of 10 CFR § 50.55(e) (Motion at 2) -- an inquiry clearly requiring a detailed review of the Report's substance.

Clearly, CCANP seeks to litigate the substance of the Quadrex Report in both the first and second phases of this hearing.

The only matter in the motion that was not addressed by CCANP and considered by the Board at the December 1981 prehearing conference is a citation to the January 28, 1982, order of the Atomic Safety and Licensing Board considering HL&P's application for a permit to construct the Allens Creek Nuclear

Generating Station (ACNGS).<sup>\*/</sup> Thus the question before the Board is whether the order of the ACNGS Board warrants reconsideration of the schedule. We think the answer is clearly "no." The ACNGS Board's action is totally irrelevant to this proceeding; the ACNGS Board could not and did not make any determination regarding the technical merits of the Quadrex findings; the ACNGS Board did not have available to it any technical evaluation of the significance of those findings and the Quadrex Report is not part of the record of that proceeding. That Board stated:

If problems due to Brown & Root's actions or inaction were encountered at the South Texas Project despite HL&P's supervision, the Board most certainly wants to know what corrective or preventive procedures HL&P will follow to assure that these problems will not recur at Allens Creek.

(Order at 3, emphasis added). HL&P believes that the issue to be heard in the ACNGS proceeding is whether, in light of the Quadrex Report, there are any additional corrective or preventive procedures HL&P should follow to assure that the problems alleged to have occurred at STP will not recur at ACNGS.<sup>\*\*/</sup> Thus for the ACNGS hearing (scheduled for April 1982)

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<sup>\*/</sup> To the extent CCANP relies on facts which have not changed since the prehearing conference, the motion is out of time. Objections to a prehearing conference order must be filed within 5 days of issuance of that order (10 CFR § 2.752(c) (1981)). Failure to file within that time period constitutes a waiver of objections.

<sup>\*\*/</sup> A recently completed separate Quadrex Report on Allens Creek establishes that none of the problems alleged by Quadrex with respect to STP have been found to exist in the engineering program for Allens Creek.

one can assume arguendo that the Quadrex findings are indicative of concerns regarding technical qualifications and proceed from there to inquire whether HL&P has taken the requisite steps to insure that problems of this type do not appear at Allens Creek. No such assumption is possible here.

Moreover, the procedural setting of the ACNGS hearing is entirely different from the circumstances of this proceeding. The record in that construction permit proceeding is closed, but for the remaining technical qualifications issues; here, as the Board found, consideration of the handling of the Quadrex Report at this stage, separate from the second phase, would of necessity result in two hearings that investigate the substance of the Report. Moreover, the effect of reversing this Board's order and conducting such a hearing would be to delay the issuance of the expedited decision required by CLI-80-32.

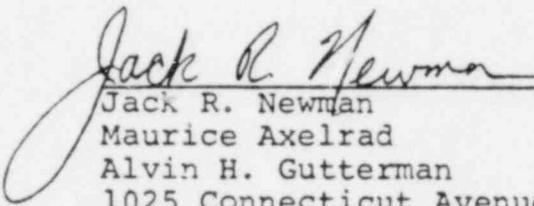
The orderly manner of proceeding provided by the Fourth Prehearing Conference Order is a matter of scheduling clearly within the Board's discretion (Houston Lighting & Power Co. (South Texas Project, Units 1 and 2), ALAB-637, 13 NRC 367 (1981); Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-459, 7 NRC 179, 188 (1978)) and is not prejudicial to CCANP. The Board has stated that conclusions with regard to character and competence drawn during the first phase of the proceeding are subject to modification if the evidence in the second phase of the proceeding so warrants. Thus the present schedule permits CCANP to litigate in the second phase the issue of

the relevance of the Quadrex Report to HL&P's character and competence, while insuring that the Board and the parties are not compelled to litigate the substance of the report in two separate hearings.

Conclusion

The CCANP motion presents no basis for reconsideration of the Board's Fourth Prehearing Conference Order; accordingly, the motion should be dismissed.

Respectfully submitted,

  
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Public Service Board of the City  
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AND LIGHT COMPANY and CITY OF  
AUSTIN, TEXAS

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CERTIFICATE OF SERVICE

I hereby certify that copies of Applicants' Response to CCANP Motion for Reconsideration of Scheduling for Hearings on Applicants' Handling of the Quadrex Report have been served on the following individuals and entities by deposit in the United States mail, first class, postage prepaid on this 22nd day of February 1982.

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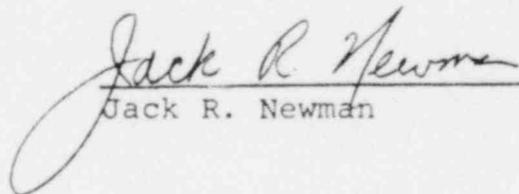
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