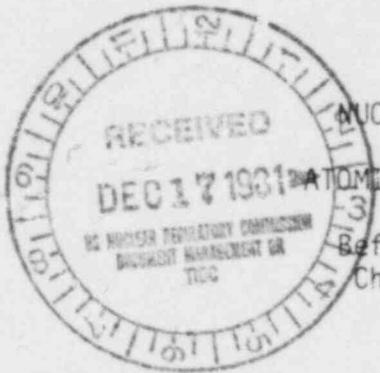


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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

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

OFFICE OF SECRETARY
PLANNING & SERVICE
BRANCH

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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

December 16, 1981

FOURTH PREHEARING CONFERENCE ORDER

On December 7, 1981, pursuant to notice,^{1/} the Atomic Safety and Licensing Board in this operating license proceeding held a prehearing conference in Austin, Texas. Participating were representatives of Applicants Houston Power and Lighting Co., et al. (HL&P), Intervenors Citizens for Equitable Utilities (CEU) and Citizens Concerned About Nuclear Power (CCANP), and the NRC Staff.

The conference was called to consider the future course of the proceeding in light of (1) the change of the project's design engineer and construction manager from Brown and Root, Inc. (B&R) to Bechtel, Inc.;

^{1/} Notice of the prehearing conference was published at 46 Fed. Reg. 55580 (November 10, 1981) and again at 46 Fed. Reg. 58622 (December 2, 1981).

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(2) the replacement of B&R as construction contractor by an as-yet-unidentified contractor; and (3) the release of a report prepared by Quadrex Corp., at the behest of HL&P, concerning B&R's engineering efforts on the project. In a letter dated September 24, 1981, the Applicants apprised the Board that the design engineer and the construction manager had been changed. On September 28 the Quadrex Report was transmitted to the Board and to the parties. In a telephone call on November 5, 1981, the Applicants informed the Board of the change in construction contractor. This information was confirmed in writing on that same date. The Board later was informed that, as a result of the above circumstances, safety-related construction on the project was being brought to an orderly conclusion and was to be suspended for approximately six months. See our Memorandum and Order dated November 13, 1981. These circumstances have a distinct bearing upon the contentions and issues presently before this Board.

This proceeding had earlier been divided into two phases: the first (presently in litigation) encompassing quality assurance/quality control-related issues as set forth in Intervenors' Contentions 1 and 2 (see attachment to Memorandum and Order dated August 3, 1979) and issues raised by the Commission's Memorandum and Order of September 22, 1980 (CLI-80-32, 12 NRC 281), further delineated as Issues A-F in our Second Prehearing Conference Order of December 2, 1980; and the second, encompassing all other issues. The changes in project organization and the need for thorough study of the Quadrex Report prior to litigation of issues arising from it called for a reorientation of the two-phase work. All parties complied with our

request for them to furnish us with recommendations in this regard.^{2/}

These matters were also thoroughly discussed at the conference. Following is a summary of the questions considered and the rulings reached.

1. Phases of hearings.

The Board had earlier planned to resume hearings during the week of January 18, 1982. CCANP argued that all hearings should be suspended for at least 90 days, during which period it could have full discovery on the contents of the Quadrex Report. It alleged that a complete record on several contentions cannot be made until all aspects of the Quadrex Report are considered. It also asserted that the Applicants have had sufficient time to have completed their reviews of the report. See Tr. 9078. CEU, consistent with its letter of November 23, 1981, took the position that while matters concerning the substance of the Quadrex Report should not be litigated until ongoing reviews by HL&P, Bechtel and NRC have been completed, litigation of other outstanding issues (concerning which some testimony has been presented) should be completed as expeditiously as possible. CEU sought to postpone hearings on the new organizational framework until a later stage of the proceeding. Tr. 9074-5.

The Board explored several alternatives with the parties. After carefully balancing the various alternatives, we ruled that the hearings would resume on January 19, 1982 (Tr. 9105). We agreed with the

^{2/} CCANP filed its response on November 21, 1981 (corrected on November 24). The Applicants, Staff and CEU filed responses dated November 23. The Applicants filed a reply on December 3.

Applicants, Staff and CEU that it is desirable to quickly conclude litigation, to the extent that it is possible to do so, on matters as to which testimony has already been presented so that a decision can be written covering events which occurred prior to and including 1981. To facilitate this course of action while taking into account the concerns of the intervenors, the Board has divided the hearing into three phases rather than the two originally established. A Partial Initial Decision will be issued with respect to each phase of the proceeding.

A. Phase I

Phase I includes all testimony concerning events which transpired before September 24, 1981 (i.e., when Bechtel's replacement of B&R as design engineer and construction manager was announced to the Board). The potential effect of the Quadrex Report on these events will not be considered during this phase. Included will be all past events involving B&R as design engineer, construction manager and contractor, and the involvement in those activities of HL&P.

Phase I will also include the Applicants' presentation of Bechtel's organizational framework for continued construction, including consideration of plans for design, a review of past problems, project construction, future QA/QC activities, and HL&P management involvement.

Phase I excludes any consideration of the Quadrex Report in either its substantive or its procedural aspect. We had suggested that perhaps the procedural aspects--i.e., the timeliness with which the Applicants notified the NRC of the Report's findings--might be heard in Phase I, inasmuch as they might have a bearing on some of the testimony already received by us.

The Applicants and the NRC Staff took the position that it was not possible to determine whether the Quadrex Report findings should have been revealed to the NRC at an earlier date without investigating the substance of those findings (Tr. 9064). Moreover, they claimed that holding separate hearings on the procedural and substantive aspects of the report would lead to duplication and inefficiency. (Tr. 9054). The Board was persuaded by these representations. Hence, our inquiry into all aspects of the Quadrex Report is deferred to Phase II. Any findings made at the conclusion of Phase I will be subject to change in Phase II to reflect the information in and reviews of the Quadrex Report. We note that the Phase II hearings will be held earlier than the normal operating license review.

B. Phase II

Phase II will include all aspects of the Quadrex Report, including its commissioning, its findings, its submission to and handling by the Applicants, and Applicants' notification of the NRC (including this Board). We expect to consider Bechtel's analysis, the Staff's analysis of the report's findings and of Bechtel's review, and remedial steps to be taken to correct deficiencies that must be corrected.

Phase II will also include other design issues such as the hurricane issue raised by Contention 4. Any QA/QC matters remaining which are not capable of completion during Phase I, as well as any matters from Phase I which require modification because of subsequent findings, will also be deferred to Phase II. Phase II hearings should commence after the approximately 6-9 month period needed for the various reviews of the Quadrex Report.

The Staff expressed doubt about its ability to issue the SER by Phase II. As we pointed out, only those portions of the SER bearing on the Phase II issues (e.g., design of safety structures to withstand hurricanes) would have to be issued at that time (Tr. 9087). We take note of the Commission's statement^{3/} that the type of design deficiencies included in the Phase II issues should not be postponed until they are too difficult or too costly to resolve. The rationale under which the Board is operating is that of reviewing such deficiencies as early as possible to give every opportunity for prompt correction. In determining which issues should be heard during Phase II, we have balanced the possible inconvenience to the Staff in advancing the date for portions of the SER against the potential safety benefits which could eventuate from an early review of such issues.

C. Phase III

Phase III will encompass other remaining issues, such as emergency planning (Contention 8) and any other leftover matters that cannot be heard prior to completion of the project. Issue F concerning quality assurance for operations, originally scheduled to be heard in an early phase of the proceeding, is being deferred to Phase III because of the slippage in the construction schedule. No party objects to this deferral.

Because the three-phase hearing schedule is different from that contemplated by the Commission in CLI-80-32, we are transmitting copies of this Order to the Commissioners for their information.

^{3/} Speech of NRC Chairman Nunzio J. Palladino to Atomic Industrial Forum on December 1, 1981 (NRC Press Release No. S781).

2. New Contentions.

The Board ruled on the admissibility of new contentions filed by CCANP on November 21, 1981. Proposed contentions 23-26 are accepted and renumbered paragraphs 8(a)-(d) of Contention 1. Rulings on contentions concerning Quadrex are deferred to Phase II of this proceeding. Proposed Contentions 10 and 12 are denied. There is no adequate basis to support proposed Contention 10, as there has been no showing made that the alleged partnership breakup demonstrated a lack of character and competence on the part of either HL&P or B&R. The substance of proposed Contention 12 has been covered in previously-admitted contentions, and the Applicants have confirmed that they will present witnesses on this matter. Questioning based on matters raised in Contention 12 will be permitted and evidence developed through cross-examination. Therefore, we decline to admit Contention 12 as a separate contention.

The Board denies CCANP's motion of November 24, 1981, which asks that we send a recommendation to the Commission that an order to show cause why HL&P's construction permit should not be revoked be issued. The Board agrees with the Staff (Tr. 9164) that it has no basis for this type of recommendation (see also Applicants' letter of December 3, 1981. p.5 n.2).

The Board also deferred ruling on the admissibility of the proposed "American Bridge" (vendor surveillance) contentions advanced by CEU on September 10, 1981 (and later adopted by CCANP) until Phase II. CEU agreed that such deferral was appropriate.

3. Schedules.

The Board has set the following schedules:

Hearings on Phase I will commence on January 19, 1982 and will tentatively be continued during the following weeks: February 9-12, March 9-12, March 23-26, and either April 20-23 or 27-30. To the extent necessary to complete the Staff testimony begun on January 19, discovery requests on Inspection Report 80-128 (the subject of new contentions 1.8(a-d)) will be due by December 21. Responses will be due on January 8.

Discovery on the Applicants' new organizational plans will continue up to the end of the first hearing week (January 22). Responses are due 14 days after the requests for discovery, or February 5 at the latest. In accordance with the Commission's new procedural rule effective December 1, 1981 (46 Fed. Reg. 58279 (December 1, 1981)), responses must be sent either by express mail or by hand delivery. If first class mail is utilized, three additional days must be allowed.

Hearings will commence on January 19, 1982 at 9 a.m. at the South Texas College of Law, 1404 San Jacinto, Houston, Texas 77002.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Charles Bechhoefer by *g*
Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 16th day of December, 1981.