

UNITED STATES NUCLEAR REGULATORY COMMISSION
DOCKET NOS. 50-498 AND 50-499
HOUSTON LIGHTING & POWER COMPANY
SOUTH TEXAS PROJECT, UNITS 1 AND 2
ISSUANCE OF DIRECTOR'S DECISION UNDER 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has acted on a Petition for action under 10 CFR 2.206 received from Mr. Thomas J. Saporito, Jr., on May 5, 1993, for the South Texas Project, Units 1 and 2.

The Petitioner requested that the NRC take specific actions; that is, that the NRC institute a show cause proceeding pursuant to 10 CFR 2.202 to modify, suspend, or revoke the Houston Lighting & Power Company's (HL&P's or the licensee's) NRC operating licenses authorizing operation of South Texas Project, Units 1 and 2; that the NRC initiate appropriate actions to cause the immediate shutdown of the two reactor cores at South Texas Project; and that the NRC take appropriate enforcement action in the form of issuance of civil penalties against the licensee and/or licensee management personnel at HL&P's South Texas Project.

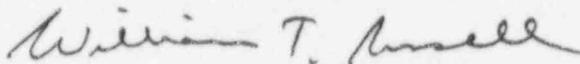
The Director of the Office of Nuclear Reactor Regulation has determined to grant the Petition in part and to deny the Petition in part. In accordance with the NRC Enforcement Policy, the NRC has issued a civil penalty (EA 93-056) of \$100,000 to HL&P for violation of 10 CFR 50.7. NRC has allowed HL&P to defer payment of the civil penalty until after the DOL completes its review.

The Director denied the Petitioner's request that the NRC modify, suspend, or revoke HL&P's operating licenses authorizing operation of South Texas Project, Units 1 and 2 and that the NRC initiate appropriate actions to cause the immediate shutdown of the two reactor cores at South Texas Project. The reasons for these denials are explained in the "Director's Decision Pursuant to 10 CFR 2.206," (DD-94-13), which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555-0001, and at the local public document room located at the Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

A copy of this Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 20th day of December 1994.

FOR THE NUCLEAR REGULATORY COMMISSION



William T. Russell, Director
Office of Nuclear Reactor Regulation



UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 WASHINGTON, D. C. 20555
 EDO Principal Correspondence Control

FROM: DUE: 06/04/93 EDO CONTROL: 0008864
 DOC DT:
 FINAL REPLY:

THOMAS J. SAPORITO, JR.
 BOYNTON BEACH, FL

TO:

EDO

FOR SIGNATURE OF: ** GRN ** CRC NO:

DESC:

2.206 PETITION FOR HOUSTON LIGHTING AND POWER
 COMPANY, SOUTH TEXAS PROJECT

ROUTING:

TAYLOR
 SNIEZEK
 BLAHA
 MURLEY, NRR
 LIEBERMAN, OE
 JMILHOAN, RIV

DATE: 05/05/93

ASSIGNED TO: OGC CONTACT: SCINTO

SPECIAL INSTRUCTIONS OR REMARKS:

NRR RECEIVED: MAY 21, 1993
 NRR ACTION: DRPW:ROE

NRR ROUTING: MURLEY
 MIRAGLIA
 PARTLOW
 RUSSELL
 CRUTCHFIELD
 GODY
 NRR MAIL ROOM

ACTION
 DUE TO NRR DIRECTOR'S OFFICE
 BY June 5, 1993

Rec'd EDO 5/5/93

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Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: HOUSTON LIGHTING AND POWER COMPANY, SOUTH TEXAS PROJECT
ELECTRIC GENERATING STATION

Dear Sir:

COMES NOW, Thomas J. Saporito, Jr. ("Petitioner") pro se, pursuant to 10 C.F.R. §2.206 and hereby submits his request for specific actions by the U.S. Nuclear Regulatory Commission (NRC) within a reasonable time directed towards Commission licensee Houston Lighting and Power Company ("Licensee") operator of the South Texas Project Electric Generating Station (STP) located near Wadsworth, Texas.

Specific Request:

- A. Petitioner requests that the NRC institute a show cause proceeding pursuant to 10 C.F.R. §2.202 to modify, suspend, or revoke the licensee's NRC operational licenses authorizing the operation of the STP nuclear station.
- B. Petitioner requests that the NRC initiate appropriate actions to cause the immediate shut down of the (2) two reactor cores at the STP nuclear station.
- C. Petitioner requests that the NRC take appropriate enforcement action in the form of issuance of civil penalties against the licensee and/or against licensee management personnel at the HLP STP nuclear station.

Basis and Justification:

- 1. The licensee can no longer provide "reasonable assurance" to the Commission for the safe operation of the STP nuclear station insofar as the NRC has referred four cases of whistleblower discrimination to the U.S. Department of Justice and the NRC is seeking unprecedented indictments against licensee officials for allegedly retaliating against the four former workers who raised safety concerns at the STP nuclear station. See Houston Chronicle article, March 28, 1993.
- 2. The Commission's rules consider intimidation and harassment of workers in the nuclear industry to be a potential criminal offense. The licensee's employment actions against this petitioner, David Lamb, James Dean and Bill Worth are an apparent violation of NRC requirements set forth under 10 C.F.R. §50.7. Thus, the licensee's actions towards these whistleblowers further instilled a pervasive

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"chilling effect" at the STP nuclear station dissuading other nuclear workers from freely voicing other nuclear safety concerns.

3. The licensee's physical plant nuclear security program is of questionable effectiveness. In deed, during a training exercise last year, a simulated terrorist team was able to penetrate the highest secured area, the "vital area" of the STP nuclear station. See Houston Chronical article, March 28, 1993.
4. The NRC inspector general analyzed the process used to justify the terminations of former licensee employees Lamb, Dean and Worth and determined that it was conducted in a manner prejudicial to the allegers. Moreover, the NRC investigators found that several licensee managers including vice president of nuclear operations Donald Hall, vice president of nuclear generation Warren Kinsey and security manager Balcom all had some degree of knowledge that the three security workers had made allegations with the licensee's "confidential" employee concerns program "Speak Out" and/or NRC officials. See Houston Chronical article, March 28, 1993.
5. Licensee officials may be held liable for criminal or civil prosecution for allegedly misleading the NRC about security related matters including but not limited to power failures which knocked out parts of a force field and the mismanagement of sensitive "safeguards" information.
6. The licensee has failed to reduce a huge maintenance backlog of corrective work which have led to repeated human errors and equipment failures. According to NRC Director of Reactor Projects of NRC Region V, the licensee has "in excess of 5,000" items that need maintenance at the STP nuclear station raising questions about whether the licensee has "lost control" of its maintenance program. One licensee source estimates the maintenance backlog to be in excess of 10,000 items. See Houston Chronicle article, March 28, 1993.
7. The licensee maintains an autocratic, vindictive management team at the STP nuclear station which has further instilled the existing "chilled" work force which is afraid to go to licensee managers who do not want to hear bad news. See Houston Chronical FOIA documents and Houston Chronical interviews of licensee workers.
8. The licensee has 12 DOL discrimination cases pending as a result of alleged retaliatory actions taken at the STP nuclear station.
9. The NRC Director of Investigations, Ben Hayes, most correctly stated that "We have damned few inspectors and a lot of licensees) nuclear plants and other NRC regulated users of radioactive materials)...If this commission cannot rely on the licensee to be truthful and candid, then that is a major safety issue as far as I'm concerned." Thus, this petitioner maintains that the licensee (HLP) can no longer provide the NRC with reasonable assurance for the safe operation of the STP nuclear facility.
10. Bill Lancaster, a former agent with the U.S. FBI and a former security supervisor at the licensee's STP nuclear station stated that "Basically, nobody wanted to hear that there were any problems,".
11. NRC Chairman, the Honorable Ivan Selin, was quoted by the Houston Chronical stating that the NRC has become "much more aggressive" in its pursuit of utilities that retaliate against whistleblowers or other wise compromise safety in the name of frugality...."We have tried to go beyond technical issues and look

into how people are being treated: Is this a plant that encourages or tries to throttle allegations?"... "I don't know if we've done as much as we can do, but we've tried." See Houston Chronical article, March 30, 1993.

12. NRC Director of the Office of Investigations, Ben Hayes, said he has no qualms about referring a case of alleged utility wrongdoing to the Department of Justice for possible criminal prosecution, as happened with Houston Lighting & Power Co. "We want people to understand that if they cut corners to try to save money, there is a risk involved,".
13. The NRC is currently investigating allegations that the licensee has used surveillance devices to spy on employees, and possibly NRC resident inspectors, at the STP nuclear station. See Houston Chronicle article, April 15, 1993.
14. On March 30, 1993, a licensee executive was involved in an incident that appears to be a form of intimidation. Warren Kinsey, the licensee's vice president for nuclear generation, encountered several protesters distributing leaflets on a public road just outside the STP nuclear facility gate. Kinsey reportedly became enraged, drove into the plant, summoned several armed guards and returned to the gate area. There, workers say, he ordered the guards to photograph the protesters and/or employees who took leaflets. See Houston Chronicle article, April 15, 1993.

WHEREFORE, premises considered, the licensee cannot demonstrate to the NRC reasonable assurance for the continued safe operation of the STP nuclear facility. Accordingly, it is appropriate for the NRC to consider this Petition pursuant to 10 C.F.R. §2.206 wherein the petitioner has set forth the facts that constitute the basis for the request. See Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), DD 85-11, 22 NRC 149, 154 (1985).

For the environment,

Petitioner pro se


Thomas J. Saporito, Jr.

TJS/tjs

cc: The Honorable John Dingell
The Honorable Bob Graham
David Williams, NRC Inspector General
Oscar DeMiranda, NRC SAC RII
National Whistleblower Center