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

DOCKETED
USNRC

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

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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

ASLBP No. 79-421-07 OL

October 17, 1984

MEMORANDUM AND ORDER
(Potential Participation by
Brown & Root, Inc. in Phase II Proceedings)

Our Memorandum dated October 2, 1984, pointed out that we had received a letter, dated September 27, 1984, from a representative of Brown & Root, Inc. (B&R), the former architect-engineer-constructor for the South Texas Project (STP); that the letter made certain allegations which may have a bearing upon proposals we had previously made for litigating certain Phase II issues; but that the letter did not set forth what (if any) action which B&R wishes us to take as a result of its allegations. As we also pointed out, B&R would have to become a party in order to have any influence upon the issues to be litigated in Phase II. We invited B&R to send a representative to the prehearing

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conference scheduled for October 16, 1984, to present its proposals (if any) for participating in Phase II.

By letter dated October 12, 1984 (which reached us prior to the prehearing conference), B&R advised that it could not be prepared to appear at the October 16 conference but would be pleased to appear at some other date if we wished. At the conference, we proposed to permit B&R to file an application to participate as an intervenor in Phase II of this proceeding, consistent with the requirements of 10 C.F.R. § 2.714, by November 9, 1984, with other parties responding in the time frame set for motions (see 10 C.F.R. § 2.730(c)). No party objected. As we stated at the conference, we are therefore adopting that proposal.

If B&R wishes to participate as a party in Phase II, it will have to meet all requirements for late-filed intervention petitions. See 10 C.F.R. § 2.714. B&R must set forth with particularity any contentions which it wishes to litigate, together with other information with respect to its standing and its timeliness in seeking to participate.

In connection with its potential Phase II contentions, it appears from B&R's September 27, 1984 letter that B&R for some reason is taking exception to our expressed intention to "assume (as did the Staff) that the various safety deficiencies alluded to in [the Quadrex] Report in fact occurred" (see our Memorandum dated June 11, 1984). We wish to point out that that assumption is to be made not for purposes of determining whether Quadrex-identified deficiencies in fact occurred or, if so, assessing blame or responsibility for such deficiencies.

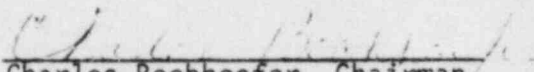
Pather, we are seeking to assure that corrective actions (to the extent necessary) are adequate. We expressly have limited the examination of Quadrex-identified technical deficiencies in Phase II to the adequacy of corrective actions; and, in doing so, we (as well as the Staff) made a worst-case assumption in the interests of conservatism. If B&R wishes to participate and advance contentions in Phase II, it should take into account the general framework we have outlined for litigating the Quadrex Report technical issues. We reiterate, however, that, absent participation as a party to this proceeding, we can give no legal status to past or potential future communications by B&R.

We note that B&R has also raised certain questions about our Phase I Partial Initial Decision (LBP-84-13, 19 NRC 659 (1984)). Questions related to that Decision are no longer in our jurisdiction but rather are before the Appeal Board. Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit No. 1), ALAB-699, 16 NRC 1324, 1327 (1982); see, generally, Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1), LBP-83-30, 17 NRC 1132, 1136-38 (1983). If B&R wishes to litigate any matters relating to the Phase I decision, it should file any such application with the Appeal Board.

For the reasons stated, it is, this 17th day of October, 1984
ORDERED

That B&R may have until November 9, 1984, to file with this Board a
petition seeking permission to participate as a party in resolving
Phase II issues.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland