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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
REGULATING & SERVICE
BRANCH

In the Matter of)	
)	
HOUSTON LIGHTING & POWER)	Docket Nos. 50-498 OL
COMPANY, <u>ET AL.</u>)	50-499 OL
)	
(South Texas Project, Units 1)	
and 2))	

APPLICANTS' MOTION TO ESTABLISH
SCHEDULE FOR PHASE III

I. Introduction

The Board's Fourth Prehearing Conference Order (December 16, 1981), divided this hearing into three phases. Phase I is complete and has resulted in the issuance of the Board's Partial Initial Decision of March 14, 1984 (LPB-84-13, 19 NRC 659). In Phase II, the record has been closed, proposed findings of fact and conclusions of law were filed by Applicants on September 30, 1984, and subsequent filings by CCANP, the NRC Staff and Applicants are scheduled for November 4, November 18, and November 26, respectively. No schedule has been established for Phase III, which is limited to consideration of Issue F (QA for operations)^{*/} and CCANP Contention 3 (over-pressurization).

*/ The Board has indicated that "during the consideration of Issue F (QA for operations) in Phase III, the Applicants and Staff will update (as appropriate) the testimony presented with respect to Issue C dealing with HL&P's organization for operations." 19 NRC at 668.

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II. Motion

Applicants hereby move the Board for an Order establishing a schedule for Phase III as follows:

- a. Discovery for Phase III begins on the date that the NRC Staff files its proposed findings of fact and conclusions of law for Phase II.
- b. Discovery ends 60 days later (i.e., all interrogatories, requests for production of documents, etc., must be filed in sufficient time to permit response by that date in accordance with NRC regulations).
- c. Pre-filed testimony is filed by all parties 15 days after the end of discovery.
- d. Phase III hearing begins 15 days after the filing of pre-filed testimony.

III. Discussion

Applicants have discussed the proposed schedule with the NRC Staff and CCANP. The NRC Staff has authorized us to state that it has no objections to the schedule. The CCANP representative has stated that he does not agree with the schedule and that no effort should be spent on Phase III until a Partial Initial Decision (PID) has been issued for Phase II. Applicants believe that CCANP's position is totally unacceptable.

First, there is absolutely no reason why the period between the filing of proposed findings and conclusions in Phase II and the issuance of the Phase II PID should not

be gainfully utilized in advancing the conduct of Phase III. The activities proposed by Applicants create no dual burden for CCANP or the Staff. Since they will have submitted their proposed findings of fact and conclusions of law for Phase II, they will be free to conduct discovery and prepare testimony. Although Applicants will still be preparing their reply findings, they voluntarily accept that dual burden in order to commence Phase III expeditiously. Furthermore, since the Board has only limited involvement during the discovery phase, it will not be distracted from writing its Phase II PID.

Second, NRC regulations contemplate that "the hearing process for the resolution of controverted matters [will be] conducted as expeditiously as possible, consistent with the development of an adequate decisional record." 10 C.F.R. Part 2, App. A, § V. Fuel load for STP Unit 1 is presently scheduled for December, 1986. Prompt initiation of Phase III discovery will permit such discovery to be completed prior to the time that Phase II appeals (if any) and responsive pleadings are prepared and submitted. Unless discovery for Phase III is initiated promptly, there is a substantial possibility that it will be difficult to prepare for and hold the Phase III hearings on a basis consistent with a timely decision on issuance of the operating license.

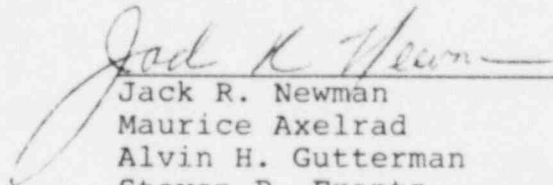
Third, the issues remaining for Phase III are quite distinct from the issues heard in Phase II. Accordingly, there is no reason to wait for the Phase II PID before commencing Phase III.

Finally, a discovery period of 60 days is appropriate in view of the limited scope of the two issues in controversy. As to Issue F (QA for operations), the parties have been served with both the pertinent amendments to the FSAR and the Staff's draft SER. Discovery was conducted with respect to Contention 3 (overpressurization) prior to the Phase I hearing and thus, any remaining discovery on this limited issue should not be extensive.

IV. Conclusion

For the foregoing reasons, Applicants' Motion to Establish Schedule for Phase III should be granted. Applicants respectfully request that a conference call to discuss the Motion be scheduled by the Board within a week after its receipt of CCANP's response thereto.*/

Respectfully submitted,



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*/ Since the NRC Staff has authorized us to state its position, we have been advised by the Staff that it will not be filing a response.

Dated: October 14, 1985

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through the City Public Service
Board of the City of San Antonio,
CENTRAL POWER AND LIGHT COMPANY,
and CITY OF AUSTIN, TEXAS

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CERTIFICATE OF SERVICE

I hereby certify that a copy of "Applicants' Motion to Establish Schedule for Phase III," dated October 14, 1985, has been served on the following individuals and entities by deposit in the United States mail, first class, postage prepaid, on this 14th day of October, 1985.

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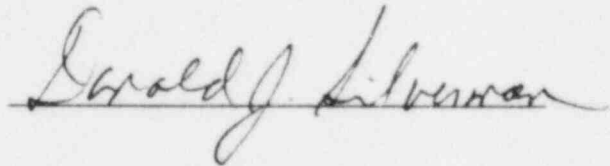
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A handwritten signature in cursive script, reading "Gerald J. Silverman", written over a horizontal line.