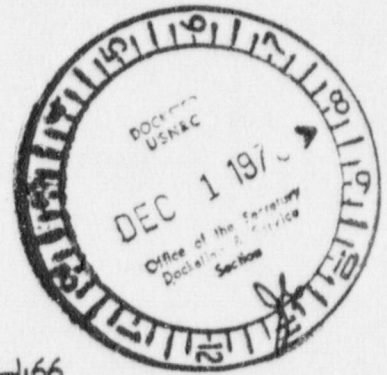


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of

HOUSTON LIGHTING & POWER COMPANY

(Allens Creek Nuclear Generating Station,
Unit 1)

Docket 50-466

RESPONSE TO THE INTERVENTION PETITION OF
HOUSTON GULF COAST BUILDING AND CONSTRUCTION TRADE COUNCIL (HGCBTC)
by Kathryn Hooker

Petitioner respectfully submits this timely* response in opposition to the intervention petition of Houston Gulf Coast Building and Construction Trade Council, filed November 10. Inasmuch as lawyers for the nuclear power plant applicant submitted arguments in support of this petition to intervene ("Applicant's Response," etc., November 22, 1978), I beg the Board to also hear arguments against it.

1. The petition is untimely. The petition is an original submission; as such it was to have been submitted within 30 days of the Board's Corrected Notice of Intervention Procedures (43 F.R. 40328), published September 11, 1978. Thus HGCBTC's petition is nearly 30 days late.

2. The HGCBTC does not set forth with particularity reasons why a submission as late as this should be admitted. It states simply that

*Under Rules of Practice, Part 2, 2.714.c, an answer to a petition to intervene may be filed within 10 days after the petition is filed. But because the petition was served on this petitioner by mail, five days must be added to the period allotted for response (Rules, Part 2, 2.710). And under this same section, it is stated: "In computing any period of time, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed, unless it is a Saturday, Sunday, or legal holiday. . . , in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor holiday." HGCBTC's petition was submitted November 10. Response time, pursuant to the Rules, is counted from November 11, and would have ended November 25; but that date is a Saturday, making the deadline Monday, November 27.

HGCBTC "was unable to intervene prior to the acquisition of authority to do so and such authority could not be obtained until November 8, 1978, owing to the size and complexity of the HGCBTC." It does not state specifically what organizational rules or procedures led it to require nearly two months to secure authority to intervene in a matter it contends will affect members' health, safety and employment opportunities.

3. HGCBTC's assertion that it must intervene to counteract the National Lawyers Guild (Houston Chapter) in its attempts to represent workers is no longer apposite. At the special prehearing conference, on November 18, Mr. Alan Vomacka of the Lawyers Guild formally stated that he did not represent the HGCBTC.

4. Although lawyers for HGCBTC have demonstrated that they are authorized to represent HGCBTC, the petition sets forth nothing to establish standing to intervene. Under "Petitioner's Interest," it is stated that HGCBTC's members live and/or work within HI&P's "service area." By itself, this should not confer standing, since the area referred to is vague and may be larger than the 50-mile "zone of concern" recognized by the NRC staff as a basis for standing*. Next, the petition states: "Consequently, Petitioners' members will in the future be dependent for the protection of their health and safety, and the quality of their environment, upon the electricity to be generated by the Allens Creek Generating Station,

* For example, see "NRC Staff's Responses to Contentions of Petitioners," November 16, 1978. The Staff notes that all petitioners cited in its heading except two "have alleged that they reside within a 20-40 mile radius of the proposed site," and that "the Appeal Board has held that a person whose base of normal, everyday activities is within the radius of a facility alleged by the petitioners here can fairly be presumed to have an interest which might be affected by reactor construction and/or operation." (P. 2.)

Unit 1. This second assertion is by no means a consequence of the first, as the petition states. It is a non sequitur. Nor is any evidence whatever presented for the second assertion. Thirdly, this section states: "An assured supply of electricity is essential to the maintenance of vital public services in the Houston area which bear upon the health and safety of Petitioner's members (e.g., hospitals, schools, fire and police protection, transportation facilities)." Petitioner has here set forth no evidence that denial of the ACNGS construction permit would jeopardize an assured supply of electricity. ^{Petitioner?} ~~It~~ has merely noted the need of Houstonians for electricity, without differentiating the special interests of HGCBTC members. Fourthly, the petition states: "Such a supply (of electricity) is also required to maintain the physical and economic welfare of Petitioner's members and their standard of living, including employment opportunities and environmental amenities, recreational and cultural opportunities." This fourth statement is inadequate for the same reasons as the third one. It sets forth what is almost a truism, applicable to members of any community using substantial amounts of electricity; no attempt is made to distinguish the special interests of HGCBTC members.

5. HGCBTC has not complied with requirements of the Commission's Rules of Practice, Part 2, 2.714.b, in that it has not filed a supplement to its petition to intervene, setting forth its contentions with reasonable specificity. This had been required to be submitted not later than fifteen (15) days prior to the special prehearing conference pursuant to 2.751.a. Nor do the contentions HGCBTC sets forth in its original petition contain any supporting details whatever.

6. Petitioner sets forth no valid reason why it should be admitted by the Board as a matter of discretion. HI&P itself has stated the case for the plant at great length; and it has also articulated the benefits for workers of the proposed plant (see, for example, Final Supplement to the Final Environmental Statement, S.10-5; Final Environmental Statement, 4-10).

For all of the above reasons, the petition to intervene should be denied.

November 27, 1978

Respectfully Submitted,

Kathryn Hooker
Kathryn Hooker

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Response to the Intervention Petition of Houston Gulf Coast Building and Construction Trade Council" have been served on the following by deposit in the United States mail, first class, this 27th day of November, 1978:

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