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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

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Docket No. 50-498 (2.206)

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Ms. Billie P. Garde
Mr. Richard E. Condit
Government Accountability Project
25 E Street, N.W.
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Dear Ms. Garde and Mr. Condit:

This letter responds to your submittals dated January 26, 1988 and February 12, 1988 requesting that action be taken with respect to the South Texas Project, Unit 1.

Your submittals have been considered pursuant to Section 2.206 of the Commission's regulations and the enclosed "Director's Decision under 10 CFR Section 2.206" provides the full response. For reasons stated in the Decision, your requests to delay licensing actions on the South Texas Project, Unit 1 are denied.

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.

A copy of the Notice of Decision that is being filed with the Office of the Federal Register for publication is also enclosed.

Sincerely,

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Enclosures:
As stated

cc w/enclosures:
See next page

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'88 MAR 21 A8:21

OFFICE OF NUCLEAR REACTOR REGULATION
Thomas E. Murley, Director

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of

HOUSTON LIGHTING AND POWER
COMPANY

(South Texas Project, Unit 1)

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Docket No. 50-498 OL

(10 C.F.R. §2.206)

DIRECTOR'S DECISION UNDER 10 C.F.R. §2.206

INTRODUCTION

On January 26, 1988 the Government Accountability Project (GAP) filed a petition (Petition) pursuant to 10 CFR §2.206 requesting a delay in the Commission's meeting to consider full-power licensing for South Texas Project (STP), Unit 1 because of alleged deficiencies in the NRC's review of allegations received through GAP. GAP requested that the Commission meeting be delayed until there had been a complete investigation of all allegations regarding STP and a report disposing of each allegation was released to the public. The Petition was referred to the staff on January 28, 1988. On February 12, 1988, GAP submitted a letter supplementing the initial petition and requesting an explanation as to the conduct of the review. This Decision provides a consolidated response to the above-mentioned submittals.

The deficiencies alleged by GAP in the Petition are related to the efforts of the NRC Safety Significance Assessment Team (SSAT) that was constituted in November 1987 to determine the licensing impact of all allegations which GAP made available to the NRC on the South Texas Project. In the January 26 submittal, GAP asserts the following as bases for its Petition:

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- (1) The results of the NRC's limited investigation into allegations were predetermined, in that the NRC had prepared a draft of the findings before the SSAT had returned from its site inspection.
- (2) One of the allegeders was not permitted to show the NRC team any of his allegations relating to Unit 1.
- (3) The NRC review was subjected to overwhelming scheduling pressures, resulting in disposition of most of the allegations without interviewing the allegeders and in a failure to thoroughly address the 60 selected allegations that were the focus of the team's review.
- (4) None of the allegations of wrongdoing have been investigated by the NRC.

In the February 12 submittal, GAP asserts the following additional deficiencies as bases for its Petition:

- (5) The SSAT did not investigate all the allegations, and therefore rendered false a statement by the NRC Chairman Lando Zech that 100% of allegations are investigated.
- (6) There was no basis for the NRC's assessment on January 12, 1988 that the allegations were not of immediate safety significance.
- (7) Houston Lighting and Power Company improperly interacted with the SSAT regarding the inspection.

In addition to the above, the Petition requests an explanation of whether NRC will conduct further investigation of the allegations.

Receipt of the GAP Petition was acknowledged on February 29, 1988. A notice that the Petition was under consideration was published in the Federal Register on March 8, 1988 (53 Fed. Reg. 7449).

In considering a request under 10 C.F.R. §2.206 or, for that matter, any allegation of substandard workmanship or improper practices involving a nuclear power reactor, the NRC staff is mindful of the Commission's overriding regulatory responsibilities to ensure adequate protection of the public health and safety in the use of radioactive material and the operation of nuclear power facilities. See Power Reactor Development Co. v. International Union of Electrical Radio and Machine Workers, 367 U.S. 396, 406 (1961). Consistent with these responsibilities, a reactor operating license will only be issued by the Commission if it can be found that there is reasonable assurance that power operation presents no undue risk to the health and safety of the public. See 10 C.F.R. §50.57. When assessing the significance of allegations, the staff makes an initial determination whether an allegation, if true, is relevant to safe operation of the facility. Allegations deemed not relevant to safe operation of the facility and allegations determined to be frivolous, or too vague or general in nature to provide sufficient information for the staff to investigate, may not receive further consideration. Nevertheless, in this case, the SSAT, in fact, did review many allegations that would normally have been considered too vague or general, in order to confirm that the types of deficiencies alleged either did not exist or would not undermine safety.

The results of the SSAT's examination of the allegations received through GAP are contained in NUREG-1306, "NRC Safety Significance Assessment Team Report on allegations related to the South Texas Project, Units 1 and 2," March 1988. On the bases of this review, the results of previous inspections, and evaluations that have been documented previously in safety evaluation reports, the staff has determined that the STP Unit 1 was built in conformance with applicable regulatory requirements and that the systems in the facility would,

if called upon, perform their intended safety function. Thus, for the reasons in this Decision, we find no basis to support GAP's request and do not recommend a delay in the Commission's meeting to consider full-power licensing for STP Unit 1. Accordingly, the Petition is denied.

DISCUSSION

GAP informed the staff in January 1987 that it had commenced an investigation into allegations concerning the safety of the STP. According to GAP, it had received safety allegations from approximately 35 current and former employees of the STP.

The staff has attempted to work with GAP to obtain the substance of these allegations since January 1987. Correspondence ensued between the staff and GAP, with repeated requests by NRC for the allegations-related information. Eventually the staff issued a subpoena to GAP to produce those documents. In October 1987, the U.S. District Court denied enforcement of the subpoena and urged the parties to work toward getting the safety issues to the staff. Subsequently, an agreement was reached between the Executive Director for Operations and GAP on the main elements of a process that would provide the NRC staff limited access to information that might be of relevance in the forthcoming licensing decisions regarding STP.

The SSAT was formed in November 1987. Each allegation was reviewed by the SSAT and a determination made as to whether further examination of the allegation was appropriate or necessary or whether no further action was required because of the duplication of allegation, lack of requisite specificity, or lack of safety significance. Those allegations that the SSAT determined to involve harassment/intimidation or wrongdoing were later referred to the NRC

Office of Investigations (OI). After several weeks of preparatory efforts, including direct telephone contact with allegeders, a site inspection was conducted during the week of January 18, 1988. On the basis of the information from the inspection, the SSAT evaluated all allegations that appeared to be technically oriented and considered to have potential safety significance. A copy of the report documenting the results of the review, NUREG-1306, is enclosed herewith. Since the SSAT's conclusions with respect to its review are fully explained in NUREG-1306, a detailed examination of each allegation is not warranted here. The following discussion summarizes some of the issues addressed in NUREG-1306 and provides a response to the matters raised in the Petition.

(1) Allegation That the Result Was Predetermined

The Petition asserts that the results of the NRC's allegedly "limited" investigation into allegations were predetermined, because the NRC inspection team or other NRC staff had prepared a draft of the findings before the SSAT had returned from its site inspection.

As explained in NUREG-1306, the SSAT inspection efforts were fully consistent with the technical information provided by GAP and the allegeders. The only limitations on the review came from the lack of specificity from GAP regarding the allegations. The SSAT made strenuous efforts to overcome this difficulty by preparing for the onsite inspection (see Appendix B, NUREG-1306) in such a way that the allegations were viewed in a wide perspective. Each allegation was examined and analyzed for both the main concern and to ascertain any

ancillary issues raised by the allegation, the potential root causes might be involved, and wider implications if the allegations were substantiated. As a result, the onsite inspection effort was focused on physical inspection of components and specific areas of the plant, as well as related documentation.

By the end of the inspection, a large body of information had been accumulated; the review of the information was still incomplete. Under these circumstances, it was not possible to make findings in many areas before leaving the site. Therefore, no draft report could have been prepared at that time as alleged by GAP.

The SSAT did not see any alleged draft reports prepared by non-members. Although individual team members may have drafted handwritten contributions to actions of the report during the site inspection, typewritten material was not produced during the site inspection indicating results of the inspection. Such handwritten drafts can only be considered preliminary documents of individual participants and not necessarily reflective of the team's ultimate conclusions.

(2) Allegation Concerning Lack of Access to Unit 1

GAP asserts that one of the allegeders was not permitted to show the NRC team any of his allegations relating to Unit 1.

The allegeder referred to in this assertion was interviewed by members of the SSAT by telephone on January 16, 1988. The SSAT reviewed the information provided by the allegeder in light of the allegations selected by the SSAT for onsite inspection and of allegations previously inspected at STP. On the basis of this review, the SSAT concluded that all but one of the allegeder's

concerns were bounded by other issues selected for inspection by the SSAT, or by previous reviews conducted on site of other allegations. The single exception was the allegor's concern relating to fasteners in electrical switchgear provided by Westinghouse. The allegor claimed that fasteners from sources other than Westinghouse were being used to fasten parts in Westinghouse switchgear. As a result of the onsite inspection, the SSAT found that non-Westinghouse fasteners had been used but that there was no safety basis or regulatory requirement to use Westinghouse fasteners, nor was a safety problem caused by use of non-Westinghouse fasteners.

A decision was made to allow the allegor access to Unit 2 instead of to Unit 1 because (1) the two units at STP are practically identical and any safety concerns raised regarding Unit 1 switchgear could be illustrated by reference to Unit 2 switchgear and (2) for security reasons, public access to Unit 1 is more difficult to obtain than to Unit 2, at the current stage of construction. The allegor came to the STP site on January 18, 1988 and toured the Unit 2 13.8-kV switchgear in the company of two SSAT members (see Appendix C, NUREG-1306). No safety-related concerns were identified as a result of the tour with this allegor.

(3) Allegation That SSAT Review Is Incomplete Due to Scheduling Pressure

GAP alleges the NRC review was subjected to overwhelming scheduling pressures, resulting in disposition of most of the allegations without interviewing the allegors and in a failure to thoroughly address the 60 selected allegations that were the focus of the team's review. GAP also alleges that

the SSAT did not investigate all the allegations, and therefore, rendered false a statement attributed to NRC Chairman Lando Zech that 100% of allegations relating to plant equipment are investigated.

The efforts of the SSAT to review all allegations for appropriate disposition is detailed at length in NUREG-1306. For approximately two months preceding the actual onsite inspection, the SSAT had access to the files that contained the concerns conveyed to GAP by the allegeders.

The SSAT review of GAP's files identified approximately 700 allegations provided by approximately 35 individuals. Each allegation was reviewed and evaluated for appropriate disposition. The SSAT determined that 120 of the 700 allegations were repetitious, 240 were considered as either harassment/intimidation or as wrongdoing, and 140 more were not safety-related. The allegations of harassment/intimidation, wrongdoing, or those that were non-safety-related were found by the SSAT to have no licensing significance. Of the original 700 allegations, a total of 213 allegations remained as possible candidates for onsite inspection at STP. Examples of these allegations are: Pipe joints not properly installed; steam generator out of plumb; 20% of valves installed backwards; heating, ventilation, and air conditioning (HVAC) ductwork and supports not installed per specifications; fasteners from questionable U.S. and foreign countries used in plant; Raychem cable splices do not meet safety standards; faulty weld rod used throughout the plant; coatings on orbital bridge flaking and chipping; crack in basemat of fuel handling building; and as-built items do not agree with as-designed configurations.

The SSAT reviewed all 213 allegations in detail and subsequently placed allegations in categories on the basis of the discipline, equipment, and shared

characteristics, (e.g., mechanical/valves/installation; electrical/splices/Rayhem). From these categories of allegations, the SSAT identified for onsite inspection those allegations that were representative of the technical concerns conveyed by the allegers and enveloped the 213 allegations either specifically or on a generic basis. Ten such allegations were identified and designated as primary allegations. In addition, 61 secondary allegations were selected that conveyed concerns similar to those of the primary allegation.

At a very early date the SSAT found that the allegations were deficient in terms of specific details. On this basis, the SSAT developed a program for inspecting the allegations; that program included provisions to compensate for the general (as opposed to specific) nature of the allegations. An essential part of the SSAT program was the development of detailed inspection plans. These plans (described in NUREG-1306) included all the steps necessary to thoroughly inspect the installed condition at STP and establish a bounding condition for the generalized concerns conveyed by the allegations. These plans were developed well ahead of the actual onsite inspection.

The SSAT interviewed all the allegers who were made available by GAP relative to the 71 allegations selected for onsite inspection by the SSAT. These interviews were conducted before and during the actual onsite inspection. With only a few exceptions, the allegers did not provide specific details. The few details that were provided did not require the previously developed inspection plans to be changed. While onsite, the SSAT made optimal use of available time. This was accomplished by emphasizing physical inspections on site and making provisions to collect supporting data for subsequent review and evaluation off site.

The SSAT was at the STP site from January 18 through January 22, 1988, or 4.5 calendar days. In actuality, the SSAT worked extremely long hours, and put in the equivalent of eight work days on site. After performing the onsite inspection, the SSAT spent significantly more time reviewing and evaluating inspection results and supporting data. The overall effort of the SSAT is estimated to have consumed 2910 person-hours. On this basis, I find that the totality of effort expended to review the allegations was sufficient to thoroughly address the concerns represented by the allegations. Moreover, the conduct of the SSAT review was fully consistent with the statement attributed to the NRC Chairman by the newspaper report included in the Petition in that each and every allegation was reviewed and evaluated, and appropriate disposition was made of each allegation.

In response to the question raised in the Petition regarding further reviews, there is no intention to conduct any further reviews on the allegations unless the results of the review of the wrongdoing allegations point to possible safety problems not previously made known to the NRC.

(4) Wrongdoing Allegations

GAP charges that none of the allegations of wrongdoing have been investigated by the NRC.

The SSAT was aware of the wrongdoing aspects associated with the allegations, and made a deliberate effort to separate the safety significance aspects out of them. The safety significance aspects have been included within the allegations assessed for licensing impact. OI encountered

difficulty in their initial attempts to gain access to the alleged information in the possession of GAP. However, the wrongdoing aspects are currently being evaluated by OI. OI has requested that GAP make available for interview the individuals making allegations of wrongdoing regarding STP. GAP has indicated to OI that it is having difficulty in locating the alleged individuals involved in the allegations under review by OI. For this reason, OI has been unable to proceed with its investigations.

(5) Mr. Rehm's Statement Regarding Immediate Safety Significance

GAP alleges that there was no basis for NRC's assessment on January 12, 1988 that the allegations are not of immediate safety significance.

In his January 12, 1988 letter, Mr. T. A. Rehm stated to Ms. Garde that, based on the SSAT's initial review of GAP's files, "The data reviewed indicates that the allegations are general in nature and not of immediate safety significance." As indicated in Section 2 of NUREG-1306, during November and December 1987, the SSAT had completed a review of all the information made available by GAP in its Washington, D.C. office. However, in the context of the continuing efforts of the SSAT, Mr. Rehm's statements were of a preliminary nature, awaiting completion of the SSAT's review. As shown in NUREG-1306, the completed review showed Mr. Rehm to be correct in his assessment.

(6) The SSAT Review Was Influenced by the Licensee

GAP also alleges that Houston Lighting and Power Company improperly interacted with the SSAT regarding the SSAT's review. GAP speculates that the

licensee limited the SSAT's investigation, and points to a memorandum issued by the licensee at the conclusion of the site visit, stating that "no safety concerns requiring additional attention were noted by the inspectors" as evidence of improper influence by licensee.

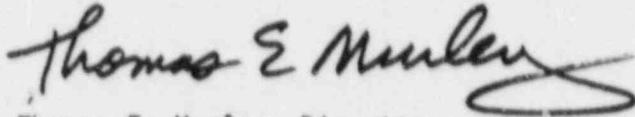
Section 2.206(a) of 10 C.F.R. requires petitioners to "set forth the facts that constitute the basis for the request." Absent such a showing, the Director need take no action on the Petition. See Public Service Co. of New Hampshire (Seabrook Station, Unit 2), CLI-84-6, 19 NRC 975, 979 (1984); Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), DD-79-17, 10 NRC 613, 614-15 (1979); Duke Power Co. (Oconee Nuclear Station, Units 1, 2, and 3), DD-79-6, 9 NRC 661, 661-62 (1979); see also Public Service Co. of Indiana (Marble Hill Nuclear Generating Station, Units 1 and 2), CLI-80-10, 11 NRC 430, 443 (1980). In view of the lack of any specific information or facts to support GAP's speculations, I find that GAP has failed to present any substantive information calling into question the independent nature of the SSAT review. In the absence of an adequate factual basis, no action need be taken regarding GAP's allegation of influence by the licensee.

CONCLUSION

On the basis of the review by the SSAT, the results of which are contained in NUREG-1306, and as described in this Decision, I find no basis to support GAP's request and do not recommend a delay in a Commission meeting to consider

full-power licensing of STP Unit 1. Accordingly, GAP's request is denied. A copy of this Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR §2.206(c).

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink that reads "Thomas E. Murley". The signature is written in a cursive style with a large, sweeping flourish at the end.

Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Dated at Rockville, Maryland this 18th day of March 1988.