

7/30/79

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
HOUSTON LIGHTING AND POWER COMPANY ) Docket No. 50-466  
 )  
(Allens Creek Nuclear Generating )  
Station, Unit 1) )  
 )

MOTION TO SCHEDULE SPECIAL  
PREHEARING CONFERENCE PURSUANT  
TO 10 CFR §2.751a

I.

On June 18, 1979, the Board published a Supplementary Notice of Intervention Procedures which provided an opportunity for persons who did not file petitions for leave to intervene pursuant to the Board's earlier notices because of restrictions on permissible contentions to file petitions for leave to intervene. The time for filing of these petitions expired on July 18, 1979. 44 Fed. Reg. 35062 (June 18, 1979).

Pursuant to the Supplementary Notice, some 63 petitions for leave to intervene and communications evidencing interest in the proceeding have been addressed to the Commission to date. Responses to these petitions and communications have been, or will be filed in the near future, by the Applicant,

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Houston Lighting & Power Company, and the NRC Staff. Applicant believes that in order to afford these petitioners the maximum amount of time to formulate their "contentions" as required by 10 CFR §2.714(b), consistent with a reasonable schedule for this proceeding, the Board should at this time schedule the date for the special prehearing conference under 10 CFR §2.751a. Applicant respectfully requests that the Board do so as promptly as possible and set the date for the special prehearing conference for Thursday, September 20, 1979.

If the special prehearing conference is scheduled for September 20, 1979, petitioners would be required to file their contentions by September 5, 1979, which is more than five weeks away. Such prompt Board action would afford petitioners more than ample notice of the date for filing their contentions. In this connection, it should be noted that the Appeal Board has stated<sup>2</sup> that petitioners should begin formulating their contentions immediately after the filing of their petitions for leave to intervene. Houston Lighting and Power Co. (Allens Creek Nuclear Generation Station, Unit 1), ALAB-535, Slip. Op. 19, n. 16.

Applicant further requests that the notice of the special prehearing conference state that the Board, in considering petitions for leave to intervene, will require petitioners to be present and respond to inquiries as to the basis for their statements that they failed to file petitions for

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leave to intervene under the Board's notices of May 31 and September 11, 1978, because of the restrictions on contentions contained in those notices. A number of the petitions to intervene are ambiguous in this respect.<sup>2/</sup> Consequently, at a minimum, inquiry should be made as to whether each of the petitioners who responded to the Supplementary Notice was actually aware of the Board's prior notices at the time of their issuance and of the restrictions on contentions contained therein. In addition, for reasons stated in the Applicant's response to the fifteen petitions submitted on a form (Michael J. Ancarrow, et al.) those petitioners should be required to respond to such Board inquiries under oath.

Applicant respectfully requests the Board to set September 20 as the date for the special prehearing conference and issue such order in the form attached hereto.

## II.

In response to the Board's Memorandum and Order of April 11, 1979, additional contentions and clarifications were filed in April-June, 1979, by intervenors TexPirg and Doherty and petitioners Potthoff and Marrack. Additional untimely contentions were filed by these intervenors/

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2/ For example, in his letter of July 11, 1979, William J. Schuessler states "It has been my understanding in the past that restrictions on contentions did not permit me to intervene, so I made no attempt to do so."

petitioners and by petitioners Robert and Madelin Framson. Both Applicant and the NRC Staff filed responses to these filings, the last response being filed in mid-July. Since these issues have been thoroughly briefed by the parties, they are ripe for determination by the Board as to their admissibility. Therefore, we urge the Board to rule on the admissibility of these contentions prior to the time of the special prehearing conference in order that the case may proceed in an orderly and expeditious manner. At the prehearing conference, a discovery schedule with respect to the contentions which are admitted can be discussed.

Respectfully submitted,

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oath. Draft of proposed order & Certificate of Suc encl.

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
HOUSTON LIGHTING AND POWER COMPANY	)	Docket 50-466
	)	
(Allens Creek Nuclear Generating	)	
Station, Unit 1)	)	

ORDER SCHEDULING  
SPECIAL PREHEARING CONFERENCE

Pursuant to 10 CFR § 2.751a, on September 20, 1979,  
(and thereafter as necessary) a Special Prehearing Conference  
will be held at a time of day and place to be announced at a  
later time in order to:

- a. Permit identification of the key issues in the proceeding;
- b. Take any steps necessary for further identification of the issues;
- c. Consider all intervention petitions to allow the presiding officer to make such preliminary or final determinations as to the parties to the proceeding, as may be



appropriate.<sup>1/</sup>

d. Discuss discovery schedule for admitted contentions filed pursuant to the Board's Memorandum and Order of April 11, 1979, (and other late-filed contentions) previously ruled upon; and

e. Establish a schedule for further actions in the proceeding.

Further, pursuant to 10 CFR § 2.714(b), as amended, not later than fifteen (15) days prior to the holding of the Special Prehearing Conference, or by September 5, 1979, any person who filed a petition for leave to intervene pursuant to the Supplementary Notice of Intervention Procedures shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in this proceeding and the bases for each contention set forth with reasonable specificity.

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<sup>1/</sup> In that connection there will be an inquiry into whether the individuals who filed petitions to intervene in response to the Supplementary Notice of Intervention Procedures published in the Federal Register on June 18, 1979 (44 Fed. Reg. 35062), did not in fact file petitions for leave to intervene pursuant to the Board's notices concerning intervention procedures dated May 31 and September 11, 1978, because of restrictions on permissible contentions contained in those notices. Such petitioners for leave to intervene will be expected to appear at the Special Prehearing Conference and respond to questions concerning that matter. Inquiry will be made into such matters as whether the petitioners were in fact aware of the May 31 and September 11 notices after their issuance and of the restrictions on permissible contentions contained therein. In some cases the Board may require responses under oath.

Limited appearance statements will not be received at the above-mentioned conference, but will be received at any subsequent prehearing conference and/or at the beginning of the hearing.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD

Sheldon J. Wolfe, Esquire  
Chairman

Dated at Bethesda, Maryland  
this \_\_\_\_ day of \_\_\_\_, 1979

1015 324



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CERTIFICATE OF SERVICE

I hereby certify that copies of the Applicant's Motion to Schedule Special Prehearing Conference Pursuant to 10 CFR §2.751a with attached draft Order Scheduling Special Prehearing Conference were served on the following by deposit in the United States mail, postage prepaid, or hand-delivery, this 30th day of July, 1979.

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