

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

NRC PUBLIC DOCUMENT ROOM



In the Matter of

HOUSTON LIGHTING & POWER COMPANY

(Allens Creek Nuclear Generating
Station, Unit 1)

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Docket No. 50-466

RESPONSE OF THE STATE OF TEXAS IN SUPPORT
OF APPLICANT'S MOTION FOR
SUPPLEMENTARY NOTICE, WITH MODIFICATIONS

On May 9, 1979, Applicant filed a motion with this Board requesting that the Board publish a supplementary notice of intervention procedures. The State of Texas fully supports Applicant's position that a new notice is necessary and would endorse Applicant's suggested notice if two problems can be resolved. The two problems that exist with Applicant's suggested notice are discussed below and the State of Texas respectfully submits that this Board should issue a new notice similar to that proposed by Applicant with certain clarifications.

(a) Parties who have never before filed a petition.

The suggested supplemental notice by the Applicant would allow additional persons to file for participation but would also require any party who has not previously filed a petition to intervene in this proceeding to file an affidavit stating that the failure to file was a result of the restricted nature of the original notice. The affidavit requirement of the suggested supplementary notice should be reviewed closely by the Board for

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it could be too restrictive and could discourage a person who otherwise would file for party status. However, the more important problem with the supplemental notice suggested by Applicant is its failure to explain clearly that persons also have a full right to petition under the late filing provisions. In keeping with the intent of a notice of a hearing, the Board should encourage persons with an interest and the ability to assist to take part in the proceeding rather than discourage participation.

(b) Persons previously filing for party status.

The more difficult issues raised by the supplementary notice requested by Applicant involve the questions of the rights of the current parties in this proceeding and the rights of those persons who filed for party status but were denied such status because their contentions were not valid contentions under the previous restrictions. The supplementary notice does not address the issues of whether these persons or parties can file new contentions. While the State of Texas is not suggesting that this Board issue a new notice that starts the whole proceeding over, we do suggest that those parties who were not represented by attorneys and who did not appeal the original decision of the Licensing Board should not be put in a worse position than persons who never applied for party status. In any case, the State of Texas respectfully requests that the Board clarify its position on these issues if the Board issues any supplementary notice in this proceeding.

Respectfully submitted

A handwritten signature in dark ink, appearing to read "Richard W. Lowerre", written over a horizontal line.

RICHARD W. LOWERRE
Attorney for the State of Texas

May 21, 1979

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Response of the State of Texas in Support of Applicant's Motion for Supplementary Notice, with Modifications were served on the following by deposit in the United States mail, postage prepaid, this 21st day of May, 1979:

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REPLY OF THE PEOPLE
OF THE STATE OF CALIFORNIA AND
THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA
TO THE JOINT APPLICANTS' RESPONSE TO
THE PETITION FOR LEAVE TO INTERVENE
OF THE ENVIRONMENTAL DEFENSE FUND

I

The People of the State of California and the California Public Utilities Commission of the State of California (CPUC) received a Petition for Leave to Intervene on May 7, filed on behalf of the Environmental Defense Fund dated May 2. On May 21, CPUC was served a copy of Joint Applicants' Response to the aforesaid Petition dated May 18 as the date of signing.

CPUC submits that the Joint Applicants' Response must be considered an "answer" filed by them under 10 CFR 2.714 entitling:

"(c) any party to the proceeding may file an answer to a Petition for Leave to intervene within five (5) days after the petition is filed."

It appears the Response of Joint Applicants was untimely filed, as not being filed "within 5 days after the petition is filed" in compliance with 10 CFR 2.714 (c), and should be rejected on that basis.

II

Even though Joint Applicants' Response should be rejected as not timely filed under Section 2.714(c), CPUC wishes to comment generally on Joint Applicants' Response as it may affect the interests of the People of California.