

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

|                            |   |                       |
|----------------------------|---|-----------------------|
| In the Matter of           | ) |                       |
|                            | ) |                       |
| Houston Lighting and Power | ) | Docket Nos. 50-498-OL |
| Company, <u>et al.</u>     | ) | 50-499-OL             |
|                            | ) |                       |
| (South Texas Project,      | ) |                       |
| Units 1 and 2              | ) |                       |

APPLICANTS' RESPONSE TO CITIZENS CONCERNED  
ABOUT NUCLEAR POWER REFORMULATED CONTENTIONS

Applicants file this response to Citizens Concerned About Nuclear Power (CCANP) Reformulated Contentions 2 and 3.

I.

CCANP's Reformulated Contention 2 consists of three interspersed parts.

The most obviously deficient and the most objectionable part of Reformulated Contention 2 is found in a series of general, unsubstantiated aspersions on the management and supervision of the South Texas Project construction by Applicants and their contractor. Thus, numbered paragraphs 1 through 7 under the heading "Introduction" on page 1 and lettered paragraphs or items g. at the top of page 2 as well as lettered

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paragraphs d. and e. at the bottom of page 2 are but rhetoric, suitable perhaps for oral argument but impermissibly vague as the basis for the conduct of litigation. CCANP does not offer the slightest factual support for these patently false and argumentative comments. They not only fail to approach the standards of specificity required by 10 CFR 2.714 but are in direct conflict with the instructions by this Board that "[a]rgumentative terms such as 'negligent,' 'incompetent' and 'fraudulent' [which] appear to have no factual foundation or basis. . . should be deleted." Under the heading "Introduction" all of the assertions of CCANP should be rejected as unfounded, lacking in specificity and inflammatory. Further, all of CCANP's references to "conspiracy," "gross negligence," "intimidation," and "falsification" throughout the filing should be stricken.

The second grouping of allegations in Reformulated Contention 2 is found under the heading "Specific Contention" and consists of a listing of seven instances, identified as items a. through f., which CCANP cites as a basis for the conclusion that, "There is no reasonable assurance that the activities authorized by the operating license for the South Texas Nuclear Project can be conducted without endangering the health and safety of the public." The subject matter of two of these, items d. and f., have been particularized sufficiently to identify "the precise construction defects or practices which the petitioner has in mind and the quality assurance provisions which CCANP claims are being violated." Prehearing Conference

Order, p. 47. Each of these two items was preliminarily identified in CCANP's Petition for Leave to Intervene filed under Certificate of Service dated December 26, 1978. As to each of items d. and f., Applicants agree that Reformulated Contention 2 meets the requirements of a litigable contention.

The remainder of the list, items a., b., c., and e., fall far short of the mark.<sup>\*/</sup> Further, they would appear to raise matters afield of the alleged practices or events identified in CCANP's Petition for Leave to Intervene.

Intervenor has not identified with any reasonable specificity the location and significance of "missing" reinforcement bars, item b.,<sup>\*\*/</sup> nor has Intervenor identified what components are included in the unfamiliar term "membrane seals," item a., or how it ascertained they were, and remain, damaged; nor has Intervenor specified what "verification" procedure for cadwelds has been omitted, item c. Item e. is likewise set forth in the same generalized manner of the original CCANP petition. In sum, despite the Board's clear instructions (Prehearing Conference

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<sup>\*/</sup> Applicants assume that the allegations contained in paragraph or item d., if proven, and if unresolved, might be found to violate 10 CFR, Appendix B, Sections X and XI. Similarly, Applicants assume that the allegations contained in paragraph or item f., if proven and if unresolved, might be found to violate 10 CFR, Appendix B, Sections VI and XVII. The general language of the remaining allegations by CCANP do not disclose what regulations might be violated thereby.

<sup>\*\*/</sup> The reference to "equipment doors" does not correspond with any identification term used by Applicants.

Order, pp. 21 & 47), Intervenor has not averred sufficient information to put anyone on notice as to the precise defects or specific practices which may have violated provisions of the NRC regulations or other requirements. Intervenor has not even indicated which sections of Appendix B might be implicated. The Board and other parties are not required to guess at the identifying details and governing regulations that support Intervenor's claims. CCANP is well aware that if it has information calling into question certain construction activities, it should plead enough such information to provide the Board and the parties with reasonable notice thereof. The Board's instructions leave no doubt on this score. Hence, CCANP's pleading must be interpreted as willfully or incurably deficient. Accordingly, items a., b., c., and e. must be dismissed.

The third identifiable part of CCANP Reformulated Contention 2 is set forth at the bottom of page 2, paragraphs or items a. through d., as general allegations of a failure of Applicants to comply with their Quality Assurance Plan.<sup>\*/</sup> Here, again, CCANP has failed to allege sufficient facts to determine the significance of its statements. For example, CCANP alleges that design changes were approved by "unqualified" personnel. The South Texas Project Quality Assurance Plan (Section 4.7) establishes at least four hierarchical levels of engineering design change review and the qualifications for each individual

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<sup>\*/</sup> The deficiencies in item e. are set forth at p. 2, above.

involved. CCANP, however, has not alleged a single concrete fact that can be used to determine when, where, or how this formal review mechanism was abused, or if the challenge extends to the system itself.

Applicants have set out in detail in the South Texas Quality Assurance Plan the procedures for effecting design changes (Section 4.7). These approved procedures do not call for the supervision of an "original designer" or quality control inspectors to assure compatibility with original purposes as CCANP suggests. On the contrary, the System Design Description is the controlling document created to exclusively record the purposes of the original design and all design changes and reviews are conducted by cognizant engineers with strict adherence to that document. These facts sharply display what is critically wrong with CCANP's vague averments: they do not impeach Applicants' procedures nor do they allege any deviation from these methods. They are but uncorroborated broadsides.

CCANP has had ample time and detailed instructions from the Board, and assistance from the Applicant and Staff on the proper construction of contentions. CCANP has, since prior to the May 10 meeting with NRC Staff counsel and Applicants, been represented by counsel.<sup>\*/</sup> Nonetheless, with noted exceptions,

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<sup>\*/</sup> Applicants' counsel, Jack R. Newman and Melbert D. Schwarz, were each advised by Mr. Steven A. Sinkin on April 30, 1979, that he was then representing CCANP. Mr. Sinkin filed his appearance under date of May 1, 1979.

CCANP's three varieties of allegations all remain inappropriate for acceptance as contentions in this proceeding. The indulgence of the Board must have limits in order for the administrative process to work. This inadequate third portion of Reformulated Contention 2 should be dismissed.

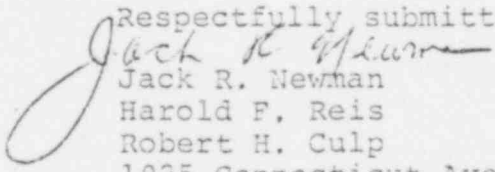
II.

Applicant agrees that Reformulated Contention 3 meets the minimum requirements for establishing a litigable contention.

III.

Applicants request that the Board dismiss all but items d. and f. (at pp. 1-2) of Reformulated Contention 2 and Reformulated Contention 3.

Respectfully submitted,

  
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360 179