

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

HOUSTON LIGHTING AND POWER )  
CO., et al. (South Texas )  
Project, Units 1 and 2) )

Docket Nos. 50-498A  
50-499A

TEXAS UTILITIES GENERATING )  
COMPANY (Comanche Peak Steam )  
Electric Station, Units 1 )  
and 2) )

Docket Nos. 50-445A  
50-446A

REPORT OF THE DEPARTMENT OF JUSTICE - JUNE, 1979

Pursuant to the order dated June 21, 1978, issued by the Atomic Safety and Licensing Board ("Board"), the Department of Justice ("Department") submits this report on the progress made by the Department in conducting discovery during the month of June, 1979.

During June, a great deal of the Department's attention was devoted to implementing the Board's order of June 1, 1979, directing that Gulf States Utility Company ("GSU") make available pertinent documents for inspection pursuant to the subpoena duces tecum issued by the Board on February 26, at the request of the Public Utility Board of the City of Brownsville ("Brownsville"). During the June 1 pretrial conference, the Board had directed that these GSU documents be made available on June 18. However, it was not until further negotiations among the Department, the Staff, GSU and Brownsville had occurred, and

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telephonic conferences had been held with members of the Board,1/ that the documents in question were finally made available. On June 25, a working agreement was reached by the interested parties; on that same afternoon, the Department and Staff began document inspection at the GSU offices in Beaumont, Texas.

During the period June 25-27, while the Staff and Department were reviewing GSU documents, negotiations continued between the interested parties in reference to a stipulation for a protective order. The protective order will safeguard the confidentiality of certain sensitive business documents, establish a procedure for accomplishing this objective, delay production of a limited number of documents related to the River Bend Nuclear Plant until July 30, 1979, and make documents pertaining to the Southwestern Electric Power Company and the City of Liberty available under the confidentiality procedure. Consequently, while the Department was able to review most of the GSU documents called for in the Brownsville subpoena, some particularly pertinent materials will not be made available for review until July 30. The stipulation will be filed shortly with the Board. 2/

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1/ Those conferences took place on June 18 and 19, 1979.

2/ While the Staff and the Department have already signed the stipulation, there are apparently still some issues which remain to be resolved between Brownsville and GSU before that stipulation can be filed with the Board.

On June 22, during the period that access to GSU documents was being negotiated, the Department received a JOINT APPLICATION FOR ISSUANCE OF SUBPOENAS from Houston Lighting & Power Co. ("HL&P") and Texas Utilities Generating Company ("TUGCO"). The application sought the issuance of 57 subpoenas for depositions to give testimony, as well as 19 subpoenas for the production of documents. The Department has been informed that those subpoenas have been issued and are being served. The Department is engaged currently in working with other parties to develop the most expeditious and mutually convenient schedule for these depositions.

On June 25, 1979, in conjunction with the noticing of depositions, the Department received by hand a letter from counsel for HL&P. In that communication, HL&P requested that the Department undertake to update (prior to the upcoming depositions) its response to Interrogatory 2 contained in the "Second Set of Interrogatories and Requests for Production of Documents from Houston Lighting & Power Company to Antitrust Division, U.S. Dept. of Justice," dated February 9, 1979. The Department is about to begin that process. Also, the Department has been engaged in discussions with counsel for HL&P and TUGCO regarding the reciprocal exchange of pertinent prior testimony of testifying expert witnesses in advance of the taking of depositions.

Along with this report, the Department is serving on the Board a JOINT APPLICATION FOR ISSUANCE OF SUBPOENAS.

The Department and the Staff are, by this application (and another application to be served by the Staff), noticing approximately 60 depositions and approximately 25 document examinations. Given the already heavy deposition schedule established as a result of the HL&P and TUGCO joint application, with depositions or document searches scheduled nearly daily from July through early October, it has become necessary for the Department and the Staff to schedule some of their depositions during the months of November and December, as well as during the dates remaining available in July, August, September and October. This is so even though, as of yet, no notices of depositions have been received from Brownsville, Tex-La Electric Cooperative, Inc., South Texas Electric Cooperative, Inc. and Medina Electric Cooperative, Inc., or any of the other parties or intervenors (with the exception of some depositions already completed by Central and Southwest Corporation).

The Department recently received notice that on June 25, 1979, the Board issued an order setting October 30, 1979, as the cutoff date for discovery. Because of the necessity to notice depositions beyond that date, the

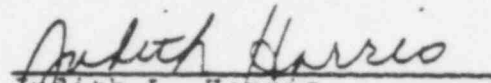
Department and the Staff are also submitting with this report a motion for partial reconsideration of the Board's latest order, asking that the cutoff of discovery be changed to December 30, 1979. The attendant delay of hearing date necessitated by continuing depositions through December is, in the judgment of the Department, absolutely essential not only because of the heavy deposition schedule already noticed, but also because of the continuing delays the Department has experienced throughout the discovery period. Indeed, negotiations continue on securing complete responses by HL&P to the Department's initial set of interrogatories, served November 22, 1978. 3/ By allocating adequate time for all parties to conduct their depositions, this Board will not only facilitate a more complete and comprehensive hearing, but will promote a shorter and a smoother proceeding as well.

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3/ During the week of June 23 through 27, 1979, the Department engaged in lengthy telephone negotiations with counsel for HL&P in an attempt to resolve disputed issues with respect to HL&P's privilege list and the Department's request that previously produced documents be categorized by interrogatory to which those documents pertain. In this fashion, the Department and HL&P have been successful in greatly reducing the contested issues which remain with respect to HL&P's production.

In addition to the foregoing, the Department has been continuing both its field work and the review of documents already in its possession.

Respectfully submitted,

  
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Dated: July 3, 1979

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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing REPORT OF THE DEPARTMENT OF JUSTICE - June, 1979 has been made on the following parties listed hereto this 3rd day of July, 1979, by depositing copies thereof in the United States mail, first class, postage prepaid and, where an asterisk appears, by hand delivery.

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