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July 10, 1979

Charles Bechhoefer, Esq., Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

and

Dr. Emmeth A. Luebke
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

and

Dr. James C. Lamb, III
313 Woodhaven Road
Chapel Hill, North Carolina 27814

In the Matter of
HOUSTON LIGHTING AND POWER COMPANY, ET AL.
(South Texas Project, Units 1 and 2)
Docket Nos. 50-498 and 50-499

Gentlemen:

Applicants are in receipt of (i) the NRC Staff's letter of July 2, 1979, relating the results of further discussions between the Staff and Intervenor Citizens Concerned About Nuclear Power (CCANP) and Citizens for Equitable Utilities (CEU) and (ii) the NRC Staff Statement of Position on Revised Contentions of CCANP and CEU ("NRC Staff Statement of Position").

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CCANP

Contention 2

As to reformulated Contention 2, Applicants previously expressed the view that items (d.) and (f.)^{*/} were sufficiently particularized to identify the construction defects complained of.^{**/} While we continue to believe that item (e.) (now item 2 in the Staff's restatement at pages 5-6 of the NRC Staff's Statement of Position) lacks the specificity required by NRC Regulations, we are of the view that further particularization via discovery may be possible and, accordingly, have no objection to Contention 2 as re-phrased at pages 5-6 of NRC Staff Statement of Position.

Contention 3

Applicants previously noted that reformulated Contention 3 meets the minimum requirements for establishing a litigable contention.^{***/}

CEU

Contention 1

Applicants remain of the view that Contention 1, as restated

^{*/} Corresponding to items 1 and 3 in the Staff's restatement at pp. 5-6 of the NRC Staff Statement of Position.

^{**/} Applicants' Response to CCANP Reformulated Contentions, p. 2.

^{***/} Applicants' Response to CCANP Reformulated Contentions, p. 6.

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by CEU in its Supplement to Original Petition goes beyond the scope of the original contention and constitutes an untimely amendment inconsistent with this Board's Order of April 3, 1979.^{*/} Should the Board determine, however, that the contention, as amended, comports with the Board's Order of April 3, 1979, in terms of timeliness, Applicants do not oppose admission of the contention on other grounds.

Contentions 2 and 3

Combined Contentions 2 and 3, as re-phrased at page 9 of the NRC Staff Statement of Position, is susceptible to reasonable discovery, and Applicants do not object to its admission as so re-phrased.

Contention 5

Applicants have previously advised that restated Contention 5 is acceptable for consideration by this Board.^{**/}

Contention 6

For the reasons set forth in the "Applicants' Response

^{*/} Prehearing Conference Order Ruling upon Intervention Petitions, wherein this Board stated at p. 64, "[CEU] take[s] the proceeding as it finds it... [and] ...cannot reserve any rights to submit new contentions...."

^{**/} Applicants' Response to Supplement to CEU Original Petition, p. 4.

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to Supplement to CEU Original Petition" at pages 5 and 6 and in the Staff Statement of Position at page 10, Applicants oppose CEU Contention 6.

Contention 7

Applicants remain of the view that Contention 7, like restated Contention 1, constitutes an untimely amendment to the original contention, inconsistent with this Board's Order of April 3, 1979. Should the Board determine, however, that the contention comports with the Board's Order of April 3, 1979, in terms of timeliness, Applicants do not oppose the admission of the contention on other grounds.

Contention 8

Contention 8, as re-phrased on page 14 of the NRC Staff Statement of Position, places in issue whether, on three stated grounds, emergency measures should be required beyond the Low Population Zone (LPZ) pursuant to 10 CFR Part 50, Appendix E, as amended. 43 Fed. Reg. 37473, August 23, 1978. Applicants do not believe that, even as modified by the Staff, the contention identifies "design features of the facility and...physical characteristics of the environs in the vicinity of the site..." justifying the extension of evacuation measures beyond the LPZ. Id.

The Commission has indicated that it will shortly initiate a rulemaking on emergency plans which will consider, inter alia, protective measures beyond the LPZ. (See NRC Staff paper

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(SECY-79-343) and transcript of NRC meeting on emergency planning, June 7, 1979). In the interest of expediting the proceeding, Applicants suggest that Contention 8, as re-phrased by the Staff, be conditionally admitted in the proceeding, but without prejudicing the right of Applicants to later object to same on the basis of the further action of the Commission in connection with the rulemaking.

Contention 9

Contention 9, as originally submitted by CEU, was found by the Board to be inadmissible unless extensively particularized. Applicants, and now the Staff, view the vast bulk of this contention, as restated by CEU, to be lacking in specificity and/or inadmissible on grounds of untimeliness. The Staff suggests, however, that one of the assertions - relating to alleged falsification of "construction records" - is sufficiently particularized to warrant adjudication. Although denying the truth of the matters contained in the contention, Applicants do not object to admission of the issue as re-phrased on page 16 of the NRC Staff Statement of Position.

* * * * *

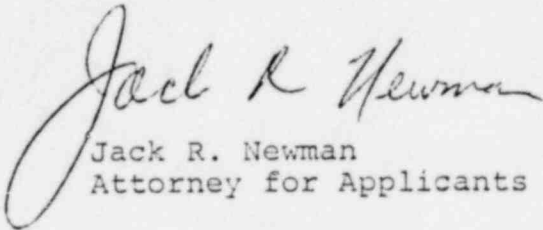
Subject to the reservations noted herein, Applicants are in

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agreement with the conclusions expressed at page 17 of the NRC Staff Statement of Position and urge the Board to issue an order consistent therewith, thus permitting prompt commencement of discovery activities.

Respectfully submitted,


Jack R. Newman
Attorney for Applicants

JRN:so

cc: See attached Certificate of Service

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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|--------------------------|---|-----------------------|
| In the Matter of |) | |
| |) | |
| HOUSTON LIGHTING & POWER |) | Docket Nos. 50-498-OL |
| COMPANY, et al. |) | 50-499-OL |
| |) | |
| (South Texas Project, |) | |
| Units 1 & 2) |) | |
| |) | |
| |) | |
| |) | |

CERTIFICATE OF SERVICE

I hereby certify that copies of the letter of the under-
signed to the members of the Atomic Safety and Licensing Board
dated July 10, 1979, in the above-captioned proceeding, were
served on the following by deposit in the United States mail,
postage prepaid, or by hand delivery this 10th day of July, 1979:

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U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

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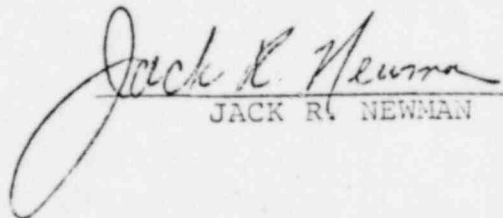
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Atomic Safety and Licensing Appeal
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JACK R. NEWMAN

Date: July 10, 1979

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