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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

APPLICANT'S RESPONSE TO PETITION  
OF WILLIAM J. SCHUSSLER

Applicant files this response to the petition filed by William J. Schuessler in this proceeding. The petition fails to comply with the Commission's regulations (10 CFR 2.714) and the "Supplementary Notice of Intervention Procedures" (44 Fed. Reg. 35062, June 18, 1979; "Supplementary Notice").

Petitioner appears to live at the very most outer edge of the frequently cited "50 mile zone of geographic interest." However, there is no authority to suggest that a statement of interest pursuant to 10 CFR 2.714(a)(2) can be as vague as is the instant petition. The sole statement of such interest is contained in the second paragraph which reads as follows:

"It gives me great concern that my family, my neighbors and I, may very likely be adversely affected by radiation from this plant - even barring a major accident."

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It appears that petitioner's interest resides in the harm he alleges from releases of radiation in normal operation. Yet there is no assertion that ACNGS will not comply with applicable NRC regulations (10 CFR 50.36, Appendix I) and, clearly, no ground specified for a challenge to the regulations.

The petition is thus impermissibly vague and especially troublesome in the case of one whose residence is in Houston, a city about forty-five miles away from the plant site. Such residence is barely adequate to place a petitioner within the geographical zone of interest. In the words of this Board, it does no more than "not preclude a finding of standing . . . ." In such circumstances, at least some indication of the nature of the injury "by radiation from this plant" is necessary.

Finally, there is the matter of timeliness. We assume that this otherwise nonet timely filing is made pursuant to that part of the Supplementary Notice which requires that petitioner:

" . . . state that he failed to file a petition for leave to intervene pursuant to the Board's notices of May 31 and September 11, 1978, because of restrictions on permissible contentions contained in those notices."

In an attempt to meet this requirement, petitioner states that:

"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."  
(emphasis added)

The reference to "my understanding in the past" is short of the unequivocal statement required by the Supplementary Notice. This may simply be an inartful statement by a pro se petitioner but it is essential to know whether petitioner was actually aware of the earlier notices. We urge that the Board, if it otherwise finds in petitioner's filing a protected interest and a cognizable contention, inquire on the record (by sworn statement, perhaps taken at the pre-hearing conference) as to petitioner's actual state of knowledge at the time of issuance of the earlier notices.

Respectfully submitted,

C. Thomas Biddle, Jr.

OF COUNSEL:

BAKER & BOTTS  
3000 One Shell Plaza  
Houston, Texas 77002

J. Gregory Copeland  
C. Thomas Biddle, Jr.  
Charles G. Thrash, Jr.  
3000 One Shell Plaza  
Houston, Texas 77002

LOWENSTEIN, NEWMAN, REIS,  
AXELRAD & TOLL  
1025 Connecticut Ave., N.W.  
Washington, D.C. 20036

Jack R. Newman  
Robert H. Culp  
1025 Connecticut Ave., N.W.  
Washington, D.C. 20036

ATTORNEYS FOR APPLICANT  
HOUSTON LIGHTING & POWER COMPANY

CTB:01:L

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NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	\$	
	\$	
HOUSTON LIGHTING & POWER COMPANY	\$	Docket No. 50466
	\$	
(Allens Creek Nuclear Generating	\$	
Station, Unit 1)	\$	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicant's Response to Petition Of William J. Schussler in the above-captioned proceeding were served on the following by deposit in the United States mail, postage prepaid, or by hand delivery this 27th day of July, 1979.

Sheldon J. Wolfe, Esq., Chairman  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dr. E. Leonard Cheatum  
Route 3, Box 350A  
Watkinsville, Georgia 30677

Mr. Gustave A. Linenberger  
Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Chase R. Stephens  
Docketing and Service Section  
Office of the Secretary of the  
Commission  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

R. Gordon Gooch, Esq.  
Baker & Botts  
1701 Pennsylvania Avenue, N. W.  
Washington, D. C. 20006

Richard Lowerre, Esq.  
Assistant Attorney General  
for the State of Texas  
P. O. Box 12548  
Capitol Station  
Austin, Texas 78711

Hon. Charles J. Dusek  
Mayor, City of Wallis  
P. O. Box 312  
Wallis, Texas 77485

Hon. Leroy H. Grebe  
County Judge, Austin County  
P. O. Box 99  
Bellville, Texas 77418

Atomic Safety and Licensing  
Appeal Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D. C. 20555

Atomic Safety and Licensing  
Board Panel  
U.S. Nuclear Regulatory  
Commission  
Washington, D. C. 20555

Steve Sohinki, Esq.  
Staff Counsel  
U. S. Nuclear Regulatory  
Commission  
Washington, D. C. 20555

John F. Doherty  
4438 1/2 Leeland  
Houston, Texas 77023

Madeline Bass Framson  
4822 Waynesboro Drive  
Houston, Texas 77035

Robert S. Framson  
4822 Waynesboro Drive  
Houston, Texas 77035

Carro Hinderstein  
8739 Link Terrace  
Houston, Texas 77025

D. Marrack  
420 Mulberry Lane  
Bellaire, Texas 77401

Brenda McCorkle  
6140 Darnell  
Houston, Texas 77074

F. H. Potthoff, III  
1814 Pine Village  
Houston, Texas 77080

Wayne E. Rentfro  
P. O. Box 1335  
Rosenberg, Texas 77471

James M. Scott, Jr.  
8302 Albacore  
Houston, Texas 77074

Charles Perez  
1014 Montrose Blvd.  
Houston, Texas 77019

Mrs. Karen L. Stade  
P. O. Box 395  
Guy, Texas 77444

Gayle De Gregori  
2327 Goldsmith  
Houston, Texas 77030

Jon D. Pittman, Sr.  
2311 Bamore  
Rosenberg, Texas 77471

Mrs. W. S. Cleaves  
8141 Joplin Street  
Houston, Texas 77017

Ms. Ann Wharton  
1424 Kipling  
Houston, Texas 77006

Vesta Eidman  
1117 River Bend Drive  
Houston, Texas 77063

Ms. Kathy Mohnke  
1411 Lamonte  
Houston, Texas 77018

Mr. James H. Robinson  
1228 Bomar  
Houston, Texas 77024

Dick Day  
3603 Drummond  
Houston, Texas 77025

Ms. Bonny Wallace  
614 Meadowlawn  
LaPorte, Texas 77571

Niami Hanson  
6441 1/2 Mercer  
Houston, Texas 77005

Elinore P. Cumings  
926 Horace Mann  
Rosenberg, Texas 77471

Mr. & Mrs. Bruce A. Palmiter  
P. O. Box 183  
302 South Missouri Street  
Orchard, Texas 77464

Fern Barnes  
2406 Morning Glory  
Pasadena, Texas 77503

Jeanne Robertson  
23 Nueces Street  
Bay City, Texas 77417

Eugene E. Mueller  
15602 Corsair Rd.  
Houston, Texas 77053

J. Michael Ancarrow  
4130 Bell  
Houston, Texas 77023

John Beverage  
Jeanette Beverage  
13031 Harwin  
Houston, Texas 77072

Barabara Blatt  
4314 1/2 Bell  
Houston, Texas 77023

Laura Brode  
5422 Olana Dr.  
Houston, Texas 77032

James D. Chilcoat  
4310 Bell  
Houston, Texas 77023

Gabriella Cosgriff  
5203 Crystall Bay  
Houston, Texas 77043

Abraham Davidson  
704 Hyde Park  
Houston, Texas 77006

J. Cl. De Bremaecker  
2128 Addison  
Houston, Texas 77030

Robert C. Kuehm  
Rachael Kuehm  
1155 Curtin  
Houston, Texas 77018

William Schuessler  
5810 Darnell  
Houston, Texas 77074

Dana Erichson  
Pat Erichson  
327 Hedwig  
Houston, Texas 77024

Stephen A. Doggett, Esq.  
P. O. Box 592  
Rosenberg, Texas 77471

Bryan L. Baker  
1118 Montrose  
Houston, Texas 77019

J. Morgan Bishop  
Margaret Bishop  
11418 Oak Spring  
Houston, Texas 77043

Janice Blue  
1708 Rosewood  
Houston, Texas 77004

Stephanie M. Brown  
3510 E. Broadway #612  
Pearland, Texas 77518

Carolina Conn  
1414 Scenic Ridge  
Houston, Texas 77043

Fortes Johnston  
1407 Scenic Ridge  
Houston, Texas 77043

Gregory J. Kainer  
11118 Wickwood  
Houston, Texas 77024

Barbara Karkabi  
1917 Wentworth  
Houston, Texas 77004



T. E. Elder  
2205 Hazard  
Houston, Texas 77019

Helen Foley  
3923 Law #16  
Houston, Texas 77005

Mary L. Fuller  
614 Bienville  
Houston, Texas 77015

Barbara J. Ginn  
4309 Bell  
Houston, Texas 77023

Robin Griffith  
1034 Sally Ann  
Rosenberg, Texas 77471

Marjorie A. Gurasich  
Rt. 1, Box 410  
Wallis, Texas 77405

W. Matthew Perrenod  
4070 Merrick  
Houston, Texas 77025

Dorothy J. Ryan  
4309 Bell  
Houston, Texas 77023

Glen Van Slyke  
1739 Marshall  
Houston, Texas 77098

Marlene R. Warner  
6026 Beaudry  
Houston, Texas 77035

Jeffery R. West  
10903 Sageberry  
Houston, Texas 77039

Rosemary N. Lemmer  
11423 Oak Spring  
Houston, Texas 77043

Laura Lewis  
1203 Bartlett #4  
Houston, Texas 77006

Susan S. McGuire  
8837 Larston  
Houston, Texas 77055

Frances Pavlovic  
111 Datonia  
Bellaire, Texas 77401

Virginia Perrenod  
2704 Beatty #112  
Houston, Texas 77023

Connie Wilson  
11427 Oak Spring  
Houston, Texas 77043

James R. Piepmeier  
618 West Drew  
Houston, Texas 77006

Patricia L. Strelein  
Route 2, Box 395-C  
Richmond, Texas

D. B. Waller  
1708 Kipling  
Houston, Texas 77098

Ron Waters  
3620 Washington Ave., No. 362  
Houston, Texas 77007

Dorothy F. Carrick  
Box 409 Wagon Rd. Rfd. #1  
Wallis, Texas 77045

*C. Thomas Biddle Jr*  
C. Thomas Biddle, Jr.