

QERA

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of

HOUSTON LIGHTING AND POWER
COMPANY

(Allens Creek Nuclear
Generating Station, Unit 1

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Docket No. 50-466

APPLICANT'S RESPONSE TO PETITIONS
FOR LEAVE TO INTERVENE OF:

ROSEMARY N. LEMMER
CAROLINA CONN
FORTES JOHNSTON

Applicant files this response to the subject
petitions for leave to intervene in this proceeding.

The petitioners are all residents of Houston,
approximately 45-50 miles from the ACNGS site. At best,
their declaration of interest is marginal, taking into
account the remoteness of their residences from the proposed
facility.

All, however, share a more fundamental defect:
failure to comply with those requirements of 10 CFR 2.714
which direct that a petitioner state the specific aspect or
aspects of the subject matter involved in the proceeding as
to which intervention is sought. The closest the petitions
come to acknowledging this requirement is a very generalized

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concern regarding the growth of the City of Houston in the direction of the plant. That matter was dealt with and disposed of in the partial initial decision in this proceeding. Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station Units 1 and 2), 2 NRC 776, 797-98. As the Appeal Board noted in reviewing this Board's "Order Ruling Upon Intervention Petitions" (February 9, 1979):

"In the absence of newly discovered evidence or a material change in circumstances, there is every reason why a party should not be permitted to reopen an issue which was fully considered and settled at an earlier time."

Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station), ALAB-535, slip op. at 15-16. None of the petitioners assert that their concerns regarding the growth of Houston is based on information not available at the time of the initial proceeding in this matter. All are therefore weak attempts to reopen issues once resolved. They fall within the proscription of the Supplementary Notice of Intervention Procedures (44 Fed. Reg. 35062) that:

"absent a showing of newly discovered evidence or a material change in circumstances, the Board will not entertain issues fully considered and settled in the above-captioned hearings in this matter on March 11-12, 1975, and as to which findings were made by this Board (See LBP-75-66, 2 NRC 776 (1975) and affirmed by the Appeal Board (ALAB-301, 2 NRC 353))."

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For the foregoing reasons, the subject petitions
for leave to intervene should be denied.

Respectfully submitted,

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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

(Allens Creek Nuclear Generating
Station, Unit 1)

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Docket No. 50466

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Applicant's Response to Petitions For Leave to Intervene of Rosemary N. Lemmer, Carolina Conn and Fortes Johnston 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.

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