UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CCANP RESPONSE TO APPLICANT AND STAFF OPPOSITIONS TO ADDITIONAL CONTENTIONS

In its Order (Further Filings Concerning Proposed Contentions), dated October 9, 1981, the Board provided CCANP the opportunity to file a written response to the positions taken by the Applicants (App) and the Staff (Staff) in opposition to the new contentions filed by CEU on Setpember 10, 1981. CCANP, as co-sponsor of the new contentions, herewith files its response taking note of the related letter sent to the Board and all parties on September 21, 1981 in which CCANP responded to a series of questions asked by the Board regarding these new contentions.

I. Timeliness (10 CFR Section 2.714(a)(1)(i))

Applicants argue that the motion for new contentions is not timely filed. The measure of timeliness is not when an event happened but rather when the filing party had adequate notice of the event to be in a position to decide whether to move for new contentions.

Applicants claim that their written report to the NRC on February 6, 1981 is the starting point for measuring

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timeliness. (App at p. 2) A careful examination of this document argues to the contrary.

The February report mentions forty (40) NCR's and thirty-one (31) components installed. (App., Attachment 2) The August, 198 newspaper accounts quote HL&P sources as saying hundreds of NCR's were written on 8,000 steel beams and nearly half of the beams were already installed when the defective welding was discovered.

Applicants also note the June 1, 1981 report to the NRC. (App., Attachment 3) This report mentions nonconformance reports but gives no total written and says nothing about installed components.

Thus, from the February and June reports, intervenors had no notice of the magnitude of the problem or the possibility of a serious breakdown in the vendor surveillance and on site inspection programs. (New Contentions 1, 2, 3, 4, and 8) While the NRC had additional notice through the involvement of the resident reactor inspector, intervenors do not have on site representatives and must depend on documents such as the February and June reports.

Contention 6 raises a matter which is in no way documented in the Applicant reports. Changing the welding inspection procedures in the midst of a major discovery of defects raises serious questions about the integrity of the inspection process and the commitment of the Applicants to code compliance.

Contention 5 raises the question whether the February and June reports actually satisfy 50.55(e) requirements. CCANP

does not intend to withdraw Contention 5. CCANP contends that there is a serious question of Applicants willingness to comply with the requirements of 50.55(e). According to 50.55(e), the reports must provide "sufficient information to permit analysis and evaluation of the deficiency." The paucity of information provided in both the February and June filings do not meet the NRC requirements. Additionally, there is the question of timeliness in reporting the welding defects. Further discovery is necessary on this point before this question can be resolved.

The Staff also argues that the February and June reports constitute adequate notice. CCANP contends that an NRC official in Arlington would have no more reason to suspect a major problem based on these reports than did Intervenors. To accept the NRC position would be to undermine the requirements of 50.55(e).

The Staff additionally argues that Item 51, Appendix C of the prefiled testimony of William A. Crossman, et. al. provided notice to Intervenors. This item in its entirety states" "Structural steel welds deviate from AWS code requirements (American Bridge) O /08/81." Other than providing the name of the vendor omitted in both Applicant reports, this item adds nothing from which to argue notice.

Staff argues that CEU could have raised the American Bridge concerns with Applicant witnesses presented during the licensing proceedings to date. (Staff at p. 10) CCANP contends that the two reports and the NRC prefiled item

in no way indicated a problem worth raising during the licensing proceedings.

The proposition that Intervenors had adequate notice prior to August, 1981 to enable them to propose new contentions, conduct discovery, or cross examine witnesses is not supported by the documentary history of this event. The filing by CEU was timely in relation to the period when Intervenors had adequate notice.

II. Other means to protect interest (10 CFR Section 2.714(a)(1)(ii))

The Applicants argue that the concerns of Intervenors will be addressed by the Applicants pursuant to 50.55(e) with NRC review and that Intervenor dissatisfaction with the resolution can be asserted at a later date. (App. at 4) The Staff takes a similar position with the added admonition that the current proceedings are a special, expedited process not to be delayed unnecessarily. (Staff at 11)

Both parties miss the point. The essential reason for most of the new contentions is to raise the question of the adequacy of the QA/QC program at the South Texas Nuclear Project. In particular, Intervenors will argue the implications of QA/QC breakdowns for the managerial character and technical competence of the Applicants.

Certainly, CCANP is concerned that all unacceptable welds be corrected. (Contention 7) But CCANP is moderately confident that the resident reactor inspector assisted by Region IV NRC will see to it that welds found to be defective or not adequate will be repaired. Only time will tell, however.

The major thrust of the new contentions is the failure to establish and implement an acceptable quality control program. This concern will not be dealt with in the 50.55(e) inspection and repair of welds. This failure is a central issue in assessing the character and competence of the Applicants.

III. Development of a sound record (10 CFR Section 2.714(a)(1)(iii)

The third factor in deciding whether a new contention is accepted is the extent to which Intervenors' participation may reasonably be expected to assist in developing a sound record.

Applicants' position is that Intervenors have not filed any material indicating an ability to contribute to development of a sound record. Yet CCANP is certain that until CEU's filing, there was little likelihood the record in these proceedings would have contained what appears to be a serious failing on the part of the Applicant. A further contribution by Intervenors can be expected if the Board grants Intervenors' request for discovery.

The Staff position on this factor is separated into two arguments. First, the staff says contentions (1) through (4) do not supply sufficient detail to put the parties on notice as to what Intervenors' concerns are apart from American Bridge. In CEU's response to this objection, CEU suggests (1) through (4) could be limited to American Bridge. (CEU at p. 7) CCANP would agree to this limitation.

CEU further contends that Contention 8 should remain broad "because the failure of vendor surveillance in the

crucial area of safety related structural steel gives rise to the reasonable presumption that similar failures have occurred in other areas." (CEU at p. 8) In retrospect, the CEU argument for a broad contention must be seen as correct.

Shortly after CEU filed its response, Intervenors received the Quadrex Report. That report contains findings directly related to the issue raised in Contention 8. For example, Quadrex found:

- "B&R review of vendor submitted reports is not consistent, sometimes they are very well done, and at other times they are poorly done ...." (3-3)
- "No documented criteria exists governing the evaluation process for vendor reports." (3-3)
- "Brown and Root continues to pursue a policy that work performed by major subcontractors or suppliers ... is design verified by these firms and can therefore be assumed to be correct." (3-3)
- "There is no evidence that analysis methods chosen by these suppliers are reviewed for acceptability and consistency." (3-3)
- "(N)o evidence was obtained that B&R is checking and approving analysis methods selected by Westinghouse." (3-3)
- "Brown and Root does not provide adequate guidance to vendors stipulating acceptable analysis and testing methods, required data, and report format." (3-4)
- "(E)xamples of inadequate analysis methods approved by B&R have been observed." (3-4)

These findings are remarkably similar to findings that could be made regarding the American Bridge events and support CEU's proposition that vendor surveillance problems are systematic.

In addition, Applicants state that "The steel is not subject to reinspection at the site absent some indication

of a problem." (APP. at p. 10) The adequacy of the QA/QC program is called into question if such a program does not provide for Category I, safety related items to be reinspected when delivered to the site by a vendor.

Staff then argues that Contentions (6) through (8) can be resolved through the 50.55(e) process. Again, 50.55(e) is a corrective action process, not a "root cause" process. Certainly, the 50.55(e) process does not address the issues raised above in the discussion of Contention 8. Contention 6 is a past event - the attempt to change inspection procedures in the midst of a major revelation of problems in order to minimize the revelations, not the problems. Applicants contend that "cosmetic deviations (such as arc strikes) ... do not affect the adequacy of the steel for its intended purposes." (App., Attachment 1, p. 3) CCANP does not agree with this assumption and contends that the changes in the inspection procedures were not appropriate. This appropriateness can be evaluated now without waiting for final action on repairing welds. The methodology for evaluating beams with inaccessible welds can also be evaluated at this time.

IV. Broaden the issues or delay the proceedings (10 CFR Section 2.714(a)(1)(iv))

Applicants position is that the new contentions are outside the scope of the proceedings and would substantially delay the proceedings.

In making their argument for excessive broadening of the issues, Applicants note the Memorandum and Order of the Commission, CLI-80-32, and conclude that the newspaper

articles submitted by CEU "do not allege abdication of knowledge or responsibility by HL&P, nor do they allege any other facts which might lead a Licensing Baord (sic) to conclude that HL&P lacks the resolve or ability to comply with NRC requirements during Plant operation." (App. at p. 9)

CCANP has a different view. While the newspapers did not "allege" anything, the contentions do. The contentions allege that the Brown and Root QA/QC program was deficient and that HL&P did not know that fact or knowing that fact failed to take adequate action to correct the deficiencies. Such an allegation clearly falls within the scope of CLI-80-32.

Applicants admit that over 95 percent of the steel was delivered before April, 1980. (App. at 10) The first report of defects to the NRC was in January, 1981, eight months after the delivery of 95 percent of the steel. Applicants told the newspapers that nearly half the steel was installed before the welding inadequacies were detected. Surely a prima facie case for the relevancy of these contentions to the QA/QC issue and the technical competency issue is found in Applicants' own representations.

As to delay, CCANP urges the Board to rule promptly on admission of the contentions and schedule discovery. CEU submitted a first set of interrogatories with its motion, so Intervenors have worked to minimize delay.

At the same time, CCANP is concerned that the Commission mandate to hold "expedited" hearings is being treated more for its form than its substance. To treat the mandate as

meaning solely a rapid process is to ignore the underlying reason for the mandate - protection of public health and safety. The Commission endorsed the Board's proposal for early hearing because the issues raised by Intervenors were sufficiently serious to require resolution before the customary hearing date. This resolution was necessary to assure the further construction of the plant did not take place under conditions detrimental to the safety of the plant. Surely a major failure in vendor surveillance or engineering or any other crucial area of the work raises the same underlying concern and deserves the same early treatment. While the Applicants recently suggested these proceedings could conclude in March, 1982 and CCANP agreed to try to achieve that timetable, CCANP finds no magic in rushing to judgment just to finish. The central task is for this Board to be assured that all major areas of endeavor affecting the quality of this plant are carried out in the required manner. The Commission surely did not mean for evidence material to the managerial character and technical competence of the Applicants to be excluded based on some overly narrow reading of "expedited".

Finally, CCANP notes that all delay in these proceedings since July, 1981 is a result of Applicants having to rid themselves of an incompetent architect-engineer and Applicants reluctance to deal similarly with an incompetent constructor and quality control organization.

V. Conclusion

CCANP contends that all the new contentions are timely, necessarily before the Board to protect Intervenors' interests,

provide Intervenors an opportunity to make a substantive contribution to the record, and clearly belong in the expedited proceedings.

Respectfully submitted,

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Dated October 23, 1981

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CERTIFICATE OF SERVICE

I hereby certify that CCANP RESPONSE TO APPLICANT AND STAFF OPPOSITIONS TO ADDITIONAL CONTENTIONS was mailed first class, postage paid on this 23rd day of October, 1981 to:

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