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UNITED STATES OF AMERICA

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BEFORE THE NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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

CITIZENS FOR EQUITABLE UTILITIES
OBJECTION TO FILING OF AMICUS CURIAE BRIEF BY
THE ATOMIC SAFETY AND LICENSING BOARD PANEL

To our astonishment we received on May 21, 1982, a request that the Atomic Safety and Licensing Board Panel be permitted to file an amicus curiae brief concerning the Appeal Board's disqualification of Judge Hill in ALAB-672. We object strenuously to the receipt and consideration of this brief as filed. It creates the clear impression that it is impossible for an intervenor to have a fair hearing before the Nuclear Regulatory Commission.

The disqualification dispute began with the filing of a recusal motion by intervenor Citizens Concerned About Nuclear Power (CCANP). The Licensing Board denied the motion in a ruling in which the Board as a whole held that CCANP's assertions did not require recusal, and in which Judge Hill, whose recusal was requested, made a separate statement responding to the assertions. Neither of the other two members of the Licensing Board chose to make any comment

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on Judge Hill's statement or to agree with any of his assertions. Immediately thereafter, the Appeal Board disqualified Judge Hill on the basis of the obvious bias demonstrated by his statement. Now, the entire panel of Licensing Board judges, including the two remaining members of the South Texas Board, has weighed in against a single intervenor, choosing even to attempt to argue the accuracy of Judge Hill's charges against CCANP. The appearance that this creates is of a special interest group, which includes Judge Hill, closing ranks to protect one of its own even when that individual has been found by an independent tribunal to be so biased that he should be disqualified from further participation in a hearing. Any intervenor or member of the public cannot hope to receive a fair and impartial hearing when he sees this occur. The clear appearance is that the Panel will protect its own interests and is not attempting to protect the integrity of the process for which it is responsible.

This need not have been the case. The Panel could have provided its counsel to represent Judge Hill personally, which is the normal state of affairs. Certainly Judge Hill should be represented so that his interest in personal vindication can be protected. That would not raise any questions about the impartiality of the remainder of the panel.

We urge the Commission to reject the brief filed on behalf of the Licensing Board Panel and to invite a brief on behalf of Judge Hill in its stead.

Respectfully submitted,


William S. Jordan, III

Date: May 26, 1982

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing CITIZENS FOR
EQUITABLE UTILITIES OBJECTION TO FILING OF AMICUS CURIAE
BRIEF BY THE ATOMIC SAFETY AND LICENSING BOARD PANEL
has been delivered this 26th day of May, 1982, by placing
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Date: May 26, 1982


William S. Jordan, III