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June 29, 1984

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Re: Houston Lighting & Power Co., et al.
South Texas Project, Units 1 and 2
Docket Nos. 50-498, 50-499

Dear Members of the Board:

We have recently received the State of Texas' June 20, 1984 response to CCANP's June 5 motion for reconsideration, which stated that "HL&P objected" to interrogatories "relevant to the notification and reportability of the Quadrex findings." (p. 3). Since the response neither quoted nor enclosed the relevant interrogatories, we believe this matter should be clarified for the record.

Enclosed for the Board's convenience are excerpts (pp. 21-26) from Applicants' August 26, 1983 answers to the State of Texas' interrogatories. As the Board will note, Applicants did not object, and in fact, fairly responded to the interrogatory seeking "Applicants' position as to why there was or was not an obligation to notify the NRC" of

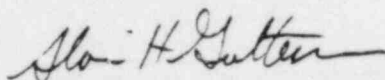
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the various Quadrex findings. (pp. 21-25). Applicants objected only to an interrogatory requesting them to specify "what obligations [they] had on May 7, 1981 to report information to the NRC," since the interrogatory improperly called for purely legal conclusions on matters which were (and still are) to be addressed by the briefs called for by the Board. (pp. 25-26). The Applicants did not refuse to provide any factual information.

Respectfully submitted,



Alvin H. Guttermann

Enclosure

cc: Service List

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
HOUSTON LIGHTING & POWER)	Docket Nos. 50-498 OL
COMPANY, <u>ET AL.</u>)	50-499 OL
)	
(South Texas Project, Units 1)	
and 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of Applicants' letter of June 29, 1984 have been served on the following individuals and entities by deposit in the United States Mail, first class, postage prepaid, on this 29th day of June, 1984.

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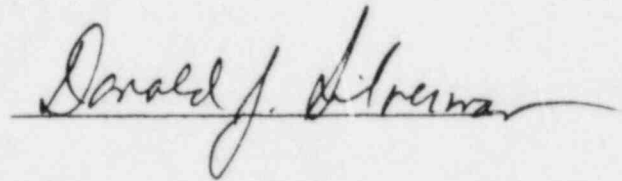
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A handwritten signature in cursive script, reading "Donald J. Litman", is written over a horizontal line.

Answer: a. To the best of HL&P's knowledge, the "Design Review" that Mr. Saltarelli was referring to was conducted by the Brown & Root System Design Assurance Group, and consisted of a design assurance review of various aspects of the STP design including external and internal interfaces and hazards analyses. NUS and Westinghouse also participated in selected aspects of this review in the mechanical and electrical areas. The specific numbers of individuals involved, scope and dates are unknown to HL&P.

Interrogatory 25: a. When was STP-QCP-44 first issued?

b. Please provide a copy of the original STP-QCP-44 and all revisions.

Objection: Applicants object on the grounds that this interrogatory seeks information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. In addition, Applicants object on the basis that interrogatory 25b is a request for production of documents which was filed out of time. See answer to interrogatory 8.

Answer: Applicants are unaware of an "STP-QCP-44." Applicants' records indicate that the B&R Quality Control Procedure ST-QCP-4.4-Concrete Inspection was first issued on April 1, 1976 and subsequently was superseded by other B&R procedures.

Interrogatory 26: For each Quadrex finding, please give the Applicants' position as to why there was or was not an obligation to notify the NRC of that finding.

Answer: Applicants' position on the reportability of the Quadrex findings is that HL&P fulfilled the applicable NRC reporting requirements by notifying the NRC of the three items reported pursuant to 10 CFR 50.55(e) on May 8, 1981; none of the other Quadrex findings were reportable.

The Quadrex findings were classified by Quadrex in its report under five categories: most serious, serious, noteworthy, potential problem, and other. Each of these categories is clearly defined in the Quadrex Report. HL&P understands that the "most serious" category includes all findings that were believed by Quadrex to have a potentially significant effect on the safety of operations and/or plant licensability. HL&P's review of the Quadrex Report confirmed the view that the findings in the categories other than "most serious" were not potentially reportable with several exceptions that had already been reported. The reason for this is that generally the items in these categories do not constitute a "deficiency . . . in design and construction, which, were it to have remained uncorrected, could have affected adversely the safety of operations. . . ."

The Quadrex "generic findings" may also be considered as a group. The generic findings were based entirely on the discipline findings. Quadrex Report, volume I at 3-1. The extent of the problems suggested by the generic findings may be assessed by reviewing underlying discipline findings. It is HL&P's position that none of the generic findings, when viewed in the context of the underlying discipline findings,

constituted a reportable deficiency, none alleged design deficiencies not also covered in the most serious discipline findings and none amounted to a significant breakdown in the quality assurance program.

The Quadrex most serious discipline findings, as defined in the Quadrex Report, include both matters that were viewed by Quadrex as having some probability of affecting the "plant licensing" and matters that "may deserve the attention of the Licensing Group." Applicants' position is that two of the matters covered by these "most serious" discipline findings were reportable or potentially reportable. These two matters are referenced in three Quadrex "most serious" discipline findings (see Quadrex findings 4.2.2.1(a); 4.4.2.1(a); and 4.4.2.1(b)). Although two other matters were reported as potentially reportable (classification of shielding calculations and the use of a common instrument air line between redundant safety-related dampers; see Quadrex findings 4.8.2.1(a) and 4.8.2.1(d)) it is Applicants' position that those matters are not reportable. Analysis has shown that neither of these matters constitutes "a deficiency . . . in design and construction, which, were it to have remained uncorrected, could have affected adversely the safety of operations. . . ."

Applicants' position is that none of the other matters addressed in the Quadrex findings was reportable. Under 10 CFR 50.55(e), notification of NRC is required if there exists:

- a. a deficiency in design and construction and
- b. if left uncorrected, it could have affected adversely the safety of operations . . . and
- c. the deficiency represents one or more of the following:

- (i) a significant breakdown in any portion of the Quality Assurance Program or

- (ii) a significant deficiency in final design as approved and released for construction such that the design does not conform to the criteria and bases stated in the Safety Analysis Report or construction permit; or

- (iii) a significant deficiency in construction . . . , or

- (iv) a significant deviation from performance specifications

Since construction or performance of constructed or fabricated structures, systems or components are generally not addressed in the Quadrex Report, criteria (iii) and (iv) have very limited applicability to the Quadrex findings.

Applicants' position is that the matters addressed in the Quadrex most serious discipline findings other than those discussed above and reported to NRC by HL&P on May 8, 1981 do not meet the criteria for reporting of 10 CFR 50.55(e). It is impractical to give detailed reasons for this conclusion with respect to each of the findings because in the case of most of the findings, there are several of the criteria that were not satisfied; and HL&P has not made a

rigorous analysis to identify each of the criteria not satisfied. Generally, the Quadrex findings do not allege the existence of a deficiency in design, but rather that Brown & Root was having difficulty creating the design. Many of the Quadrex findings reflected Quadrex's view of "good engineering practice," but the Brown & Root practices being discussed did not violate regulatory requirements (see, e.g., Quadrex findings 4.1.2.1(h), 4.3.2.1(c), 4.3.2.1(f), 4.3.2.1(i), 4.4.2.1(g), 4.5.2.1(b), 4.8.2.1(a) and 4.8.2.1(d)); many pertained to Brown & Root designs which were preliminary and not final (see, e.g., Quadrex findings 4.5.3.1(d); 4.5.3.1(g); 4.5.3.1(h); 4.5.3.1(i); 4.5.5.1(d); 4.6.2.1(k) and 4.7.3.1(a)); and for a number of the findings it is Applicants' position that the matter as described in the finding would not affect adversely the safety of operations (see, e.g., Quadrex findings 4.5.2.1(a); 4.5.3.1(e); 4.5.3.1(h); 4.5.3.1(j); 4.6.4.1(b); 4.7.2.1(a) and 4.7.2.1(b)).

Interrogatory 27: Please specify what obligations Applicants had on May 7, 1981 to report information to the NRC. Please provide citations to the rules, regulations, case law, or other sources for the obligations identified.

Objection: Applicants object to this interrogatory on the grounds that the subject matter is not appropriate for an interrogatory and, in view of the briefing schedule adopted by the Board, it would be unduly burdensome to require Applicants to supply the requested information prior to the time Applicants' brief on such issues would be due.

This interrogatory requests Applicants to set forth their legal opinion regarding applicable NRC reporting requirements as of May 7, 1981, and therefore calls for legal conclusions which are beyond the scope of appropriate discovery in NRC proceedings. Boston Edison Co. (Pilgrim Nuclear Generating Station, Unit 2), LBP-75-30, 1 NRC 579, 583 (1975); Consumers Power Co. (Midland plant, Units 1 and 2), LBP-74-33, 7 AEC 858, 859 (1974).

In addition, the Licensing Board has provided for the filing of briefs by the parties to this proceeding on this very subject. Memorandum and Order (June 22, 1983) at 6-7. The briefing schedule established by the Board provides that the NRC Staff shall file its brief initially, and that the other parties may respond within 30 days. Id. at 7. Applicants will provide their legal position regarding the applicable NRC reporting requirements in their response brief as authorized by the Board. The effect of this interrogatory would be not only to require Applicants to provide their legal conclusions at a date much earlier than anticipated by the Board, but also to shift the order of presentation established by the Board.

Interrogatory 28: Did the Applicants' review of the Quadrex Report on May 7-8, 1981 or subsequently include a determination of whether notification/reporting requirements other than 10 C.F.R. Section 50.55(e) had been met?

Answer: Yes.