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March 14, 1985

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

Dear Administrative Judges:

In a telephone conversation on March 12, CCANP's representative informed Applicants' counsel that it would not be filing any further response to the Staff Affidavit of December 21, 1984 on construction QA/QC under the new contractors at STP (Staff Affidavit). CCANP's initial response to the Staff Affidavit was served on February 25 and CCANP's subsequent response was due on March 11. In accordance with the Board's February 28 Memorandum, Applicants had planned to file a single response to both CCANP pleadings on March 25.

This is to advise the Board that no response beyond this letter will be filed by Applicants for the following reasons:

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(1) In its February 25 submittal, CCANP takes issue with the procedure established by the Board for determining whether there are issues requiring litigation in Phase II arising out of HL&P, Bechtel and Ebasco's performance on the Project since the termination of the former contractor. In particular, CCANP argues that since Issue B is an admitted issue in this proceeding, it should not be required to delineate specific factual matters warranting litigation, and that Applicants should be required to submit prefiled testimony on HL&P, Bechtel and Ebasco's performance.* / CCANP also requests discovery on Applicants' prefiled testimony prior to the initiation of Phase II hearings.** /

Although CCANP now takes issue with the procedure established by the Board, it failed to object to that procedure either at the October 16, 1984 prehearing conference*** / or after the Board's Fifth Prehearing Conference Order. **** /

Furthermore, the Board has already stated that its instruction to the Staff to supplement the record on HL&P, Bechtel and Ebasco's performance "was not intended to be an

* / CCANP Comments on Staff Affidavit Re: Issue B and Motion for ASLB to Require Filing of Prefiled Testimony on Issue B in Phase II and to Provide for Discovery on Said Prefiled Testimony (February 25, 1985) (CCANP Comments) CCANP Comments at 1-4.

** / Id. at 4.

*** / At the prehearing conference, CCANP's counsel expressed his opinion that, after receipt of the Staff Affidavit, hearings would be required, but did not object to the Board's intention to determine, on the basis of the parties' pleadings, whether issues suitable for hearing existed. Tr. 10736-737.

**** / Fifth Prehearing Conference Order (November 16, 1984) at 3-4. CCANP moved for reconsideration of other aspects of the Board's Order. CCANP Motion for Reconsideration of ASLB Order of November 16, 1984 (December 4, 1984).

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open-ended extension of Issue B into Phase II, **/ and that if any party believes that there are litigable issues arising out of the Staff Affidavit, such issues should be identified "explicitly." ***/ Finally, CCANP's request for discovery after submission of prefiled testimony is contrary to the Commission's Rules of Practice, and ignores the substantial opportunity provided for discovery by the Board's May 22, 1984 Memorandum and Order. ***/

Thus, CCANP's challenge to the procedure established by the Board to identify litigable issues arising out of the Staff Affidavit is both late and without merit.

(2) In the remainder of CCANP's response, it asserts that Phase II should include "a comprehensive examination of HL&P/Bechtel/Ebasco performance since the close of the record in Phase I," and seeks a hearing on such matters as the general operation of the STP SAFETEAM program, the NRC Staff's investigative procedures, allegations received by the Staff, and the bases for the Staff's SALP ratings. CCANP Comments at 5-8.

CCANP's desire to assess "the credibility of the NRC investigative effort," or to undertake a detailed look at "the substance of the allegation[s] [identified in the Staff Affidavit], the personnel involved, and the resolution," without any hint of a factual controversy concerning these matters that would be material to the Board's determinations, is insufficient to identify issues warranting a hearing in Phase II. Id. at 6, 7. Similarly, no specification of factual issues warranting litigation is provided with respect to the other matters identified by CCANP.

*/ Memorandum and Order (May 22, 1984) at 8.

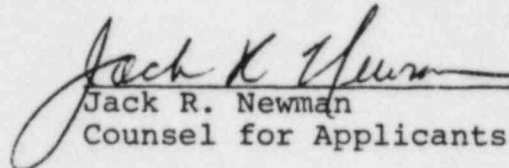
**/ Fifth Prehearing Conference Order (November 16, 1984) at 3; Tr. 10741-742 (October 16, 1984).

***/ Memorandum and Order (May 22, 1984) at 10-11.

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Since CCANP has failed to identify a single, litigable issue arising out of the Staff Affidavit, it has provided no basis for holding any evidentiary hearings on the matters addressed in that Affidavit.

Respectfully submitted,



Jack R. Newman
Counsel for Applicants

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 a copy of the Applicants' letter to the Licensing Board dated March 14, 1985, has been served on the following individuals and entities by deposit in the United States mail, first class, postage prepaid, on this 14th day of March, 1985.

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