

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARDDOCKETED
USNRC

In the Matter of

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HOUSTON LIGHTING AND
POWER COMPANY, ET AL.
(South Texas Project,
Units 1 and 2)()
()
Docket Nos. 50-498 OL
50-499 OL

'85 JUL -8 A11 58

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCHCCANP SPECIFICATION OF TESTIMONY SOUGHT FROM CCANP
WITNESSES (PART II)

In its Memorandum and Order (Telephone Conference Call of June 21, 1985), the Board ordered CCANP to file a statement of exceptional circumstances for calling the NRC personnel named in CCANP's identification of witnesses filed June 13, 1985. Pursuant to 10 C.F.R. 2.720(h)(2)(i), CCANP must show the witness requested has direct personal knowledge of a material fact not known to the witnesses made available by the Executive Director for Operations.

In this instance, CCANP'S case regarding the requirement to notify the NRC within 24 hours of potentially significant safety deficiencies is very much a case of first impression. Specifically, how did the NRC Staff, attorneys, and management react when they first saw the Quadrex Report. In order to present this case to the Board, CCANP seeks to call the people who actually responded to the Quadrex Report in the time period from its actual discovery by NRC investigators until the top NRC management reported to the Commission.

1. Richard Herr - Mr. Herr was the lead inspector on the investigation which discovered the Quadrex Report. His testimony is expected to differ from that offered by Mr. Phillips in various respects. Mr. Herr is expected to testify that he

requested all documents which related to problems with Brown and Root's access engineering program. He is further expected to testify that, unlike Mr. Phillips, he viewed the evidence of deficiencies uncovered in this investigation, especially the Quadrex Report, as a sufficient basis for HL&P's Quality Assurance personnel to issue the stop work order on all of Brown and Root's design and engineering work that said personnel wanted to issue.

2. Mr. Donald E. Sells - While Mr. Sells is testifying for the NRC on the period up to the time HL&P turned over the Quadrex Report to the NRC, he is not specifically addressing all of the activities he played a role in after the Report was turned over.

Specifically, Mr. Sells is expected to testify that he cooperated in preparation of an NRC chronology of Quadrex events prior to the conduct of I&E 82-02.

Mr. Sells is also expected to testify that he was especially requested by NRC licensing management to comment upon a chronology of Quadrex-related events prepared by CCANP in December 1981 and that he did in fact prepare such comments which were in turn transmitted by Mr. Dircks to the Commissioners.

3. Mr. Ed Reis - Mr. Reis apparently spoke with Mr. Donald E. Sells about the Quadrex Report, once Mr. Sells had an opportunity to actually review the report, and based on that conversation, Mr. Reis called Mr. Newman, counsel for HL&P, to tell Mr. Newman that either HL&P would turn the Quadrex Report over to the ASLB or the NRC Staff would do so. Mr. Reis is the only NRC witness competent to provide the details of his reaction to his conversation with Mr. Sells and the details of his call to Mr.

Newman. [At the same time, from NRC discovery responses to the State of Texas, it appears that perhaps only Mr. Gutierrez spoke with Mr. Sells. If so, Mr. Reis' testimony would only be sought on the conversation with Mr. Newman.]

4. Mr. Jay Gutierrez - Mr. Gutierrez is expected to testify that he was contacted by Mr. Don Sells to discuss Mr. Sells review of the Quadrex Report, that based on that conversation Mr. Gutierrez decided that the Quadrex Report findings on problems experienced in design and engineering could impact the adequacy of construction; were, therefore, relevant to the ongoing hearings before the ASLB; and should be turned over to the ASLB. Mr. Gutierrez apparently shared his conclusion with Mr. Reis, who in turn contacted HL&P.

5. Mr. John Collins - Mr. Richard de Young informed CCANP that while he thought that he did initiate an investigation into whether HL&P willfully withheld the Quadrex Report from the NRC, the responsibility for that investigation was almost certainly given to Mr. Collins. The subsequent investigation was supervised and approved by Mr. Collins (I&E 82-02). CCANP seeks Mr. Collins testimony as the person in charge of this investigation and as the person familiar with internal NRC memoranda and other documents generated as a result of this and related inquiries.

Mr. Collins is also called to testify that in his conversations with HL&P personnel subsequent to the discovery of the Quadrex Report said HL&P personnel steadfastly refused to make further 50.55(e) reports or turn the report itself over to the NRC. He is called to testify that his preliminary conclusion was that the report should have been the subject of a 50.55(e)

report as a violation of 10 C.F.R. Part 50, Criterion VII.

Mr. Collins is also called to testify regarding the meetings he had with HL&P personnel to discuss the Quadrex Report and how quickly Brown and Root would cease performing as architect-engineer. In particular, he is expected to testify that NRC management personnel, particularly Mr. Stello, were quite anxious after seeing the Quadrex Report that Brown and Root cease all design and engineering activities immediately.

6. Mr. Karl Seyfrit - Mr. Seyfrit is being called to testify that in the May 7 to December 31, 1981 period, HL&P made various requests to proceed with safety-related construction. He is further expected to testify that during the time the bulk of those requests were made, he was unaware of the Quadrex Report. Finally, on this point, he is called to testify that his decision on whether to approve or disapprove the requests made by HL&P could have been influenced by knowledge of the Quadrex Report. The NRC has not called any witnesses on this point.

In addition, Mr. Seyfrit is called to testify regarding his meetings with HL&P personnel following the discovery of the Quadrex Report in August 1981 and his preliminary position that the report as a whole should have been the subject of a 50.55(e) report as a violation of 10 C.F.R. Part 50, Criterion VII.

7. Mr. Don Driskill - Mr. Driskill is called to testify as the lead investigator in the I&E 82-02 report. He will be asked to elaborate on the facts contained in the report and to provide his impressions as an investigator of the people he interviewed.

8. Mr. William J. Dircks - Mr. Dircks is called to testify the on November 18, 1981, he and Chairman Nunzio J. Palladino appeared

before the Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs of the United States House of Representatives to discuss quality assurance for nuclear power plants. In his testimony, Mr. Dircks characterized the South Texas Nuclear Project as one of those projects experiencing "serious quality assurance breakdowns with broad repercussions."

On the Quadrex Report specifically, Mr. Dircks testified:

"Briefly [sic], the Quadrex Report found that Brown and Root apparently failed to properly implement the QA program in the design area but also failed to properly implement an overall design process consistent with the needs of a nuclear power plant. As a result verification of design information was apparently not performed in a timely manner, and regulatory commitments for safety did not appear to be fully or properly implemented to satisfy NRC requirements for licensability.

NRC inspection reports dating back to 1979 found problems at the South Texas plant similar to those identified in the Quadrex Report. However, the agency's audits did not surface the number of problems suggested by the Quadrex Report. Though we were aware of QA problems at South Texas and had cited the licensee for a breakdown in their QA program in April 1980, the magnitude of problems were not fully appreciated until we first reviewed the report in August 1981."

Mr. Dircks is also called to testify that he sent a memorandum to then NRC Commissioner Peter Bradford on December 15, 1981 which enclosed a chronology of events related to the Quadrex Report. Mr. Dircks is expected to testify that the chronology was prepared by Region IV and that the NRC conclusion at that time was that:

"It appears that HL&P did indeed keep the NRC informed concerning the study, but the potential significance of the findings was not made known in a timely fashion."

Mr. Dircks is being called to testify that on January 11, 1981, he sent another memorandum to all the Commissioners which compared a chronology of Quadrex-related events prepared by CCANP

with the chronology prepared by NRC and found no significant differences.

9. Mr. James Lieberman - One question facing the ASLB is: If the ASLB decides that HL&P failed in one way or another to meet its obligations under 50.55(e) as this regulation related to the handling of the Quadrex Report, how serious is the violation. Through the testimony of Mr. Lieberman, CCANP will demonstrate that under the NRC regulatory scheme applicable at the time, the violation committed was a Level I violation. Mr. Lieberman is an expert on the enforcement program of the NRC. No NRC witness is being called on this point.

Regarding other witnesses originally identified by CCANP, the prefiled testimony and other considerations provide a sufficient basis for CCANP to drop its request for the following witnesses: Don D. Jordan, George Oprea, Jerome Goldberg, Richard Frazar, Joe Tapia, Shannon Phillips, G. L. Madsden, Richard deYoung.

Respectfully submitted,

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Austin, Texas

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CERTIFICATE OF SERVICE

I hereby certify that copies of CCANP's SPECIFICATION OF TESTIMONY SOUGHT FROM CCANP WITNESSES (PART II) were served by hand delivery (*) or deposit in the U. S. Mail, first class postage paid to the following individuals and entities on the 3rd day of July 1985.

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