

UNITED STATES OF AMERICA
Nuclear Regulatory
Commission

Before Atomic Safety and Licensing Board



In the matter of

HOUSTON LIGHTING AND POWER COMPANY

(Allens Creek Nuclear Generating
Station)

Dec. 6, 1978
Docket # 50-466

BILL OF EXCEPTIONS RELATED TO ORDER RULING ON TEX-PIRG's MOTION

On October 30, 1978, Petitioner Texas Public Interest Research Group (TexPIRG) filed a motion requesting the Board to remove certain restrictions on admissible contentions in the above-styled proceeding. TexPIRG is in receipt of an Order denying said motion, and therefore continuing to require contentions to be related to "new evidence" or changes in plant design since 1975. TexPIRG herein files this bill of exceptions to that ruling.

TexPIRG's position on this motion is clearly outlined in its Motion of Oct. 30, 1978 and its subsequent memorandum supporting that document.

Briefly reiterated, TexPIRG objects to the ruling on its instant motion, because: (1) a final judgement has not been rendered in this proceeding, and TexPIRG was not a party to the prior hearing of 1975, and thus neither collateral estoppel or res judicata may be applied; (2) no party has shown unconscionable delay and prejudice may result from a full hearing at this time; (3) the interests of the public, particularly with respect to ensuring full compliance with NEPA, outweigh any damage that may accrue to Applicant due to a full hearing before the Board at this time; and (4) assuming, for the sake of argument, that some form of "new evidence" rule were appropriate, the Board, in its ruling, apparently applies such restrictions to issues left unconsidered in the March, 1975 hearing, a choice TexPIRG believes to violate the thrust of the Appeal Board decision in this matter in December, 1975.

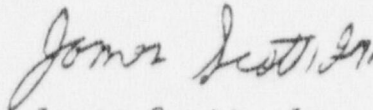
In relation to the fourth factor above, TexPIRG would point out that the transcripts of the March, 1975 hearing does not indicate that health and safety issues, beyond those related to site suitability, were reviewed; yet the Board apparently applies a "new evidence"

7812180306

rule on these contentions as well.

For the reasons cited above, TexPIRG files these exceptions to the Board's Order of November 30, 1978.

Respectfully Submitted,



James Scott, Jr.

Counsel for TexPIRG

CERTIFICATE OF SERVICE

I, James Scott, hereby certify that this instrument, entitled Bill of Exceptions Related to Order Ruling on TexPIRG's Motion, has been served upon the following by deposit in U.S. Mail, First Class, on December 7, 1978.

Sheldon Wolfe, Esq.
ASLB Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Jack Newman, Esq.
1025 Connecticut Ave. NW
Washington, D.C. 20555

Richard Lowerre
Asst. Atty. General, Texas
P.O. Box 12548
Capitol Station
Austin, TX 78711

Steve Sohinki, Esq.
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

J. Gregory Copeland
Baker & Botts
One Shell Plaza
Houston, TX

