

UNITED STATES DISTRICT COURT  
FOR THE  
SOUTHERN DISTRICT OF TEXAS  
Houston Division

1996-11-13  
1996  
1996-11-13, Clerk of Court

HOUSTON INDUSTRIES INCORPORATED, )  
)  
*Plaintiff—Cross—Respondent,* )  
)  
*vs.* )  
)  
DANIEL C. KAUFMAN, *et al.*, )  
)  
*Defendants—Cross—Petitioner.* )

Civil Action No. H-95-5237

**GOVERNMENT'S MOTION FOR  
RECONSIDERATION OF MAGISTRATE  
JUDGE CRONE'S APRIL 25, 1996,  
PROTECTIVE ORDER**

Pursuant to Rule 72 (a) of the Federal Rules of Civil Procedure, the government respectfully states its objections to Magistrate Judge Crone's April 25, 1996, order granting Houston Industries Incorporated's ("HII") Request for Protective Order.

1. The government specifically objects to the requirement in Paragraph 4(a) that, when notifying HII of an intention to disclose designated materials in a manner permitted by the Antitrust Civil Process Act, the government must "identify with specificity . . . the third party to whom it intends to disclose" such materials. This provision prevents the government from preserving the anonymity of its potential witnesses and interferes with the government's ability to conduct its investigation. The government moves that Paragraph 4(a) be modified to require the government to identify "the classification (*e.g.* competitor or customer) of the third party to whom it intends to disclose" designated materials.

2. The government specifically objects to paragraph 1(a) of the Protective Order, which states that HII's discretion to designate materials for protection shall "include, but not be limited to (a) documents or data which HII determines in good faith to be sensitive, commercial, and proprietary or (b) the specific load and energy data of HL&P's customers; information

concerning the prices, economics, terms or conditions of capacity, energy and/or steam sale contracts available to HL&P's customers; analyses, proposals or communications regarding opportunities for alternative electric generation resources available to HL&P's customers."

Because no order entered by this Court should authorize designation beyond materials protectible under FED. R. CIV. P. 26(c)(7), the government moves that Paragraph 1 be modified by striking the words "but not be limited to."

3. The government generally objects to the Magistrate Judge's failure to require HII to show "good cause" before granting its Request for Protective Order.

As shown more fully in the accompanying Memorandum of Points and Authorities, the Magistrate Judge's Protective Order is clearly erroneous and contrary to law and should therefore be modified or set aside.

Respectfully submitted,



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**Certificate of Service**

The undersigned hereby certifies that true and correct copies of the foregoing document were, on this 8th day of May, 1996, served by overnight courier for next business day delivery to the counsel of record listed below.

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