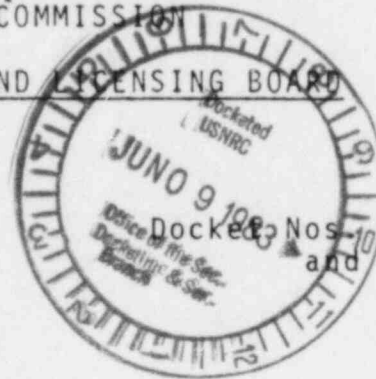


6/6/83

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

In the Matter of

APPLICATION OF TEXAS UTILITIES
GENERATING COMPANY, ET AL. FOR
AN OPERATING LICENSE FOR
COMANCHE PEAK STEAM ELECTRIC
STATION UNITS #1 AND #2
(CPSES)



CASE'S MOTION FOR A STAY
OF BOARD'S ORDER REGARDING LOCA

Pursuant to 2.730, CASE (Citizens Association for Sound Energy), Intervenor herein, hereby files this, its Motion for a Stay of Board's Order Regarding LOCA.

BACKGROUND

One of the issues raised in what have come to be known as the Walsh/Doyle allegations had to do with the exclusion of the effects of a Loss-of-Coolant Accident (LOCA) on the pipe supports. This issue was first raised by Mr. Walsh (CASE Exhibit 659, 7/28/82 Testimony and Statement of Mark Anthony Walsh); Mr. Doyle also expressed his concerns regarding this issue (CASE Exhibit 669, Deposition/ Testimony of Jack Doyle). This issue, in fact, was one of the primary reasons for the resignations from Comanche Peak by both Mr. Walsh and Mr. Doyle.

At the direction of the Licensing Board, Briefs were filed regarding this issue and the interpretation of the ASME Code, NRC regulations and guidelines, etc. (See NRC Staff's Briefs of 4/20/83, 5/3/83, and 5/11/83; Applicants' Briefs of 4/21/83, 5/3/83, and 5/11/83; and CASE's Briefs of 4/20/83, 5/3/83, and 5/9/83.) We will not reiterate the contents of these Briefs at this time.

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There was considerable discussion regarding this issue in the May 1983 operating license hearings (see Tr. 5866-6008; 6013-6092, steam generator upper lateral restraint; 6173-6223, steam generator upper lateral restraint; 6223-6269, moment restraint; and Board decisions, 6009-6013, 6269). Following the Board's decisions in this regard, CASE immediately contacted Dr. David H. Boltz, an expert in linguistics (defined in Webster's dictionary as "The study of human speech including the origin, structure, and modification of language, or languages. It includes esp. phonetics, morphology, semantics, general or philosophical grammar."). Dr. Boltz was unable to make arrangements to take off work the next day, but was there the following day, at which time CASE made a motion that the Board hear his analysis of the meaning of ASME NF-1121(a). CASE's motion was denied. (See Tr. 6821-6822.)

Although the Board stated that its decision was based on a consideration of the entire record both on code interpretation and on a conclusion that there would be no serious compromise of plant safety by applying the plant code provisions as the Board interpreted them (Tr. 6821-6822), a review of the record of these proceedings indicates very clearly that much of the testimony, discussion, and Briefs in this regard had to do with the interpretation of the meaning of the ASME Code.

Part of the record had to do with Applicants' claim that it was industry practice not to include the LOCA considerations with which Messrs. Walsh and Doyle are concerned; however, Applicants offered no specifics in this regard, while on the other hand, there is testimony in the record from CASE witnesses Messrs. Walsh and Doyle that it was considered at specific plants of which they knew or at which they had personally worked. (Specifically, Mr. Doyle

has stated that Duke Power Co. at the McGuire nuclear plant considers it and, although this is not in his testimony, that Bechtel at the Diablo Canyon nuclear plant where Mr. Doyle was recently employed considers it. Mr. Walsh has stated that Duke Power Co. considers it at the McGuire Station where he worked, as do the Midland and Palisades nuclear plants; see CASE Exhibit 659A and 841, following tr. 7278, Resumes of Mark Walsh; and CASE Exhibit 659, 7/28/82 Testimony and Statement of Mark Anthony Walsh, page 2, fifth full paragraph.)

Mr. Walsh further stated that it is common engineering practice to analyze the effects of LOCA temperature loads (CASE Exhibit 659, page 2). There is no rational reason to accept the unsupported generalities of Applicants' witnesses as opposed to the specific instances cited by CASE's witnesses. Even if there has been a change in policy regarding the specific plants (with the exception of Diablo Canyon where Mr. Doyle was employed from February 1983 until he quit to return to testify in the May 1983 operating license hearings) and the current practice is to disregard LOCA temperature loads (and there is nothing in the record to support this assumption), the Board should require Applicants to supply specific supportive documentation that it is common industry practice to disregard LOCA temperature loads.

The aspect of whether or not it is common industry practice to disregard LOCA temperature loads is part of CASE's concern in this matter. If the Board has been misled by the Applicants' statements in this regard and if, in fact, the actual situation is that many nuclear plants are currently considering LOCA temperature loads as CASE believes, the Licensing Board's ruling may well be used as a precedent to discourage nuclear plants which are currently considering

this aspect of LOCA from continuing to consider it. Thus, this Licensing Board's ruling can have an effect far beyond the Comanche Peak proceedings.

For the preceding reasons and the reasons stated during the previously referenced hearings and in the Briefs filed, CASE has requested Dr. David Boltz to supply his analysis of the ASME Code sub-sections in question (see Affidavit of Dr. David H. Boltz attached hereto). As indicated in Dr. Boltz' affidavit (page 1), CASE and Dr. Boltz had not thought that the sub-section could be misunderstood as it was. Otherwise, we would certainly have had Dr. Boltz' interpretations included in our Briefs.

As indicated in Dr. Boltz' Affidavit, the interpretation of the Code sections by the Applicants, the NRC Staff, and the Licensing Board was incorrect grammatically and linguistically. Nothing is said in NF-1121(a) (CASE Exhibit 745) or NF-3231.1(a) (CASE Exhibit 744) to restrict the causes of constraint of free-end displacements. "This subsection merely states that a constraint of free-end displacement causes mechanical stresses and effects which must be considered." (Affidavit at page 4 and 5.) Further support for the correctness of Dr. Boltz' analysis is given in NF-3121.2 (CASE Exhibit 839, from Winter 1982 Addenda to 1980 ASME Code) -- see Boltz Affidavit, page 5. In short, according to Dr. Boltz' analysis, there is nothing in the language and punctuation of the ASME Code sub-sections in question to support the Board's interpretation.

It should be noted that Dr. Boltz also points out that "the text of the NF-1121(a) which appears in the 1974 Edition of the Code was not written as clearly as it might have been" and that "the words which appear there may not say what the Committee originally intended for them to say." (Affidavit at page 5.) CASE has therefore

also requested an interpretation of the ASME Code sub-sections direct from the ASME Code Interpretation committee. (See CASE's June 1, 1983, letter to Kevin Ennis, ASME, and Mark Walsh's May 22, 1983, letter to Kevin Ennis, ASME.)

As indicated in CASE's June 1, 1983, letter to ASME, according to Mr. Ennis ASME does not officially recognize any interpretation of any portion of the ASME Code by any individual or group other than the ASME Code Interpretation committee. Mr. Ennis also indicated that such an interpretation may take anywhere from about fifteen days to perhaps six months or so. According to the NRC Staff's latest estimate of fuel load, this should be prior to fuel load.

Since (as recognized by the Board, tr. 6007/2-10, and by the Applicants, tr. 5994/23-24) Regulatory Guide 1.124 (CASE Exhibit 743) always leads us back to NF-3231.1(a), much of our request to ASME has to do with that particular section, in addition to clarification of other pertinent sub-sections. NF-3231.1(a), it should be remembered, is for Design, Normal, and Upset Conditions. It should also be remembered that the ASME Code does not specify loading combinations and that guidance (in the form of Regulatory Guide 1.124) is required to provide a consistent basis for the design of component supports (CASE Exhibit 743, first page, right-hand column, second full paragraph, last sentence). In addition, ASME does not deal directly with the fact that, in the event of a LOCA, the pipe supports which do not see the faulted condition still must remain operable. The only reference in ASME to LOCA (and even then LOCA is not specifically mentioned) is in regard to the pipe supports which do receive the faulted load (as discussed in NF-3231.1(c), which is not applicable to the situation with which CASE is concerned).

CASE believes that the ASME Code interpretation which we have requested for NF-3231.1(a), NF-1121(a), and NF-3213.10 of the 1974 Edition and NF-3121.11 of the Winter 1982 Addenda to the 1980 Edition will clarify the true intent of ASME, as interpreted by the only official source, ASME itself, will support CASE's position.

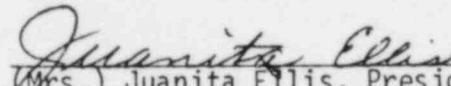
In any event, based on the record of these proceedings and the attached Affidavit of Dr. Boltz, there exists sufficient ambiguity in the wording of the Code to make it imperative that an interpretation by ASME be obtained -- especially in light of the fact that the Board's ruling in this regard will have a possibly negative impact on other nuclear plants as well as Comanche Peak.

CASE'S MOTION

For the reasons set forth herein, CASE hereby moves that the Licensing Board:

1. Grant CASE's motion for a stay of its orders regarding LOCA (tr. 6009-6013, 6269), pending receipt of ASME's Code interpretation;
2. Leave the record open in this regard until the ASME Code interpretation has been received and analyzed; and
3. If appropriate following receipt of the ASME Code interpretation, require additional briefs and/or testimony regarding this matter.

Respectfully submitted,


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