

May 9, 1983

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
TEXAS UTILITIES GENERATING ) Docket Nos. 50-445  
COMPANY, et al. ) 50-446  
 )  
(Comanche Peak Steam Electric ) (Application for  
Station, Units 1 and 2) ) Operating Licenses)

APPLICANTS' ANSWER TO CASE'S  
MOTION FOR DISCOVERY REGARDING "CAT" REPORT

Pursuant to 10 C.F.R. §2.730(c), and this Board's instructions 1/ Applicants hereby submit their answer to CASE's motion for discovery regarding the CAT Report. For the reasons set forth below, Applicants oppose CASE's motion. Applicants note that they normally do not oppose discovery requests in toto. However, because of the extensive nature of CASE's requests, the approaching hearing and the voluminous materials already provided CASE on this subject, Applicants feel compelled to do so in this instance.

I. Applicants' Answer to CASE's Motion

A. CASE's Discovery Requests Are Unnecessary  
And Cumulative

CASE has already conducted extensive discovery regarding pipe support design allegations in connection with its

1/ April 25, 1983 Conference Call, Tr. 5832.

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discovery on the NRC Special Inspection Team Report (I&E Report 82-26/82-14). In that regard, CASE received over 2,000 pages of material from Applicants in response to CASE's requests and has received many additional documents from the NRC Staff. 2/ The extensive discovery taken on that report covered the whole spectrum of allegations made by CASE's witnesses. Now CASE would have Applicants provide even more material without any demonstration of how the material is relevant to the issues and how the material is particularly different from material already provided. Absent such a demonstration, Applicants submit that CASE's instant requests are merely cumulative of prior requests and thus unnecessary. Accordingly, Applicants urge the Board to find that CASE has failed to show good cause for further discovery on these matters.

B. CASE's Requests Are Unduly Burdensome

As discussed above, CASE has been provided with over 2,000 pages of material relevant to the allegations made by its witnesses regarding pipe support design. CASE's present requests call for, inter alia, design packages of over 120 additional pipe supports. In addition, CASE is asking for procedures, non-conformance reports, "or other documents used to identify and deal with any changes, problems, discrepancies, etc."

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2/ See Applicants' letter of April 27, 1983 to CASE; see also the NRC Staff's letters of March 30 and April 6, 1983 to CASE.

regarding these supports. The effort required to accumulate, let alone copy, all such documents would entail many man-days of work. In addition, the volume of material that has been requested, on top of the material already supplied to CASE, is far more than CASE could reasonably expect to use at the hearing, let alone review prior to the hearing. Further, the root issue here has been condensed down to interpretations of the ASME Code, NRC regulations, and NRC guidance. CASE's request for even more documents will not lead to the production of information bearing on this root issue. In sum, Applicants submit that CASE's instant discovery requests are unduly burdensome in view of the present status of discovery and litigation of these matters, and no good cause has been shown to justify this discovery.

C. CASE's Discovery Requests Are Untimely

On April 13, 1983, the NRC Construction Appraisal Team ("CAT") Report documenting its inspection of construction activities performed at Comanche Peak regarding various items, including pipe supports, was provided to a CASE representative at a meeting with the NRC Staff in Bethesda, Maryland. However, not until the April 25, 1983, conference call with the Board did CASE state that it intended to seek discovery on the CAT Report, 3/ even though CASE should have known at least

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3/ Tr. 5830.

since March 18, 1983, that the CAT Report could be the subject of hearings. 4/ In sum, CASE did not raise the possibility of discovery on the CAT Report for almost two weeks after receiving a copy, even though it was aware it would need to seek authorization from the Board to conduct additional discovery. 5/ Thus, CASE's discovery requests are untimely, particularly in view of the scope of those requests (discussed above). Accordingly, Applicants submit CASE has not demonstrated good cause for failing to immediately pursue discovery if such was its intent regarding the CAT Report.

### III. CONCLUSION

For the foregoing reasons, Applicants oppose CASE's motion and urge the Board to deny CASE's motion in its entirety.

Respectfully submitted,

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May 9, 1983

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4/ By its letter of March 18, 1983, the Staff indicated that it considered the findings of the CAT inspection to be "both" relevant and significant to the issues in this proceeding", and thus, an appropriate issue for a hearing.

5/ April 7, 1983 Conference Call, Tr. 76.

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CERTIFICATE OF SERVICE

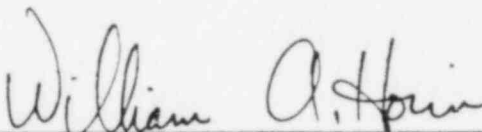
I hereby certify that copies of the foregoing "Applicants' Answer to CASE's Motion for Discovery Regarding "CAT" Report" in the above-captioned matter were served upon the following persons by hand delivery (\*), express delivery (\*\*) or by deposit in the United States mail, first class postage prepaid, this 9th day of May 1983.

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|---|--|
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