

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

2/10/84
DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD FEB 11 1984 9:59

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)

OFFICE OF SECRETARY
DOCKETING - SERVICE
Docket Nos. 50-445
and 50-446

CASE'S MOTION TO LATE FILE
TESTIMONY OF NEW WITNESS

On the morning of February 7, 1984, CASE (Citizens Association for Sound Energy), Intervenor herein, mailed the prefiled direct testimony of its witnesses Jack Doyle and Mark Walsh, for receipt by the Board and parties on February 8 (in accordance with the Board's instructions).

That same night (February 7), CASE received a telephone call from Ms. Dobie Hatley, who identified herself as being a former Brown & Root employee who had just been fired that day, who had information regarding Comanche Peak. After some discussion with her, it became obvious to CASE that some of the information she has needed to be included in testimony to be heard by the Board the week of February 20-24 regarding the CYGNA Report, and Ms. Hatley agreed that she should testify. The next day, February 8, CASE advised the Board Chairman and Applicants by phone that there was the possibility that CASE would have a new witness on the CYGNA Report. Later that afternoon and evening, CASE had further discussions with Ms. Hatley and began preparation of her testimony by phone. During our conversation that evening, Ms. Hatley was served with a subpoena to appear for deposition by

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Applicants on Wednesday, February 15, 1984. (It should be noted that, since CASE itself had not yet had the opportunity to completely debrief our new witness, we had not identified Ms. Hatley by name when we spoke with Applicants.)

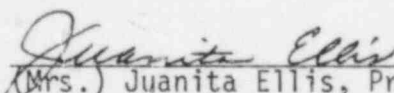
Since CASE had not been contacted by Ms. Hatley prior to the evening of February 7, and since Ms. Hatley did not contact CASE's representative until she was fired on February 7, good cause exists for CASE's late filing. Further, as can be seen from reviewing Ms. Hatley's testimony, it is substantive, pertinent, and material to these proceedings and necessary to a complete record.

In addition, since the CYGNA Report itself is (as CASE understands it) to be the prefiled document about which the upcoming hearings will be conducted, CASE would have been within its rights had we chosen instead to present Ms. Hatley purely as a rebuttal witness, without prefiled written testimony.

Further, it is obvious that Applicants have not been harmed by any surprise, since they apparently have reason to believe that Ms. Hatley would come to CASE with her concerns. And the NRC Staff had received Applicants' notice of deposition within two days after CASE itself first knew of our new witness.

For the preceding good reasons, CASE moves that the Board grant its Motion to Late File Testimony of New Witness.

Respectfully submitted,



(Mrs.) Juanita Ellis, President
CASE (Citizens Association for Sound Energy)
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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of
CASE'S 2/10/84 MOTION TO LATE FILE TESTIMONY OF NEW WITNESS

have been sent to the names listed below this 10th day of February, 1984,
by: Express Mail where indicated by * and First Class Mail elsewhere.

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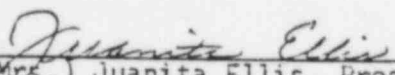
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