

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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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)

Docket Nos. 50-445
and 50-446

CASE'S PROPOSED SCHEDULE FOR HEARINGS

Pursuant to the Board's directive in its 12/28/83 Memorandum and Order (Scheduling Matters), at page 3, item 6, CASE files its Proposed Schedule for Hearings.¹ In that Order, the Board stated that "parties shall file proposed schedules for the next hearing session." It is not clear to CASE at this time whether the Board wants a proposed schedule for what should be covered in the next hearing session, or a proposed schedule for the remainder of the hearings. We assume that it is to be the proposed schedule for just the next hearing session, and are answering accordingly.²

CASE proposes that the next hearing session be held beginning:

Tuesday, February 21, 1984, on open welding issues (improper downhill welding, problems with control of welding rods, improper use and repair of "plug welds," weave welding or beading, cap welding, preheat requirements). /3/

¹ At CASE's request, an extension of time was granted until today to respond. (See CASE's 1/3/83 letter to Licensing Board, Re: Extension of Time for Responding to Board's 12/28/83 Memorandum and Order (Scheduling Matters).)

² CASE attempted to contact Judge Bloch this morning but was unable to do so; we discussed this with NRC Staff counsel Mizuno and he indicated that it was his understanding also that what was requested was a proposed schedule for just the next hearing session. We will attempt to confirm this later today with Judge Bloch. If our understanding is incorrect, we ask that we be allowed to supplement this pleading; we assume that the Staff would also need to supplement.

³ See CASE's 12/23/83 Response to Applicants' Identification of Issues and Proposal to Establish Hearing Schedule (pages 13, 14, 15, 17) and Board's 1/3/84 Memorandum and Order (Additional Scheduling Order), pages 6 and 7, item VII.

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As previously discussed⁴, the Department of Labor hearings before an Administrative Law Judge regarding the firing of Bill Dunham have been scheduled for the week of February 13. If we can arrange it, CASE would like to be able to attend those hearings, which as far as we know at this time will be in Houston. Further, and perhaps more importantly, those hearings will require the presence and testimony (as we understand it) of some of Applicants' witnesses in these proceedings, including Mr. Brandt, who has been Applicants' primary witness in these proceedings regarding welding matters.

Therefore, were hearings to begin February 7, 1984, as tentatively scheduled by the Board⁵, and continue into the next week as contemplated by the Board⁶, this would place an undue and unnecessary burden on CASE and especially on Applicants. In all fairness, Applicants' witnesses should be present to hear all testimony regarding welding matters, and they should not have to attempt to juggle two entirely separate hearings in the same week.

Furthermore, the Board has asked for assistance from Applicants and NRC Staff regarding the proper legal context in which to consider welding questions⁷. Having hearings begin February 21 would allow Applicants and Staff to respond to the Board's request and allow the Board adequate time to review and assess their responses.

⁴ CASE's 12/23/83 Response to Applicants' Identification of Issues and Proposal to Establish Hearing Schedule, page 34.

⁵ Board's 12/28/83 Memorandum and Order (Scheduling Matters), page 3, item 6.

⁶ Id., page 5, item 12.

⁷ Board's 1/3/84 Memorandum and Order (Additional Scheduling Order), page 7, item VII.

In addition, CASE suggests that it would be a more logical approach and a better use of everyone's time to focus during these hearings on construction, rather than design, regarding welding issues⁸, reserving any further testimony regarding design of welds until a later time when other Walsh/Doyle concerns are taken up.

CASE does not believe it would be possible to schedule two weeks of hearings prior to February 7 for the simple reason that there would not be sufficient time for the parties to respond to the requests of the Board, to file motions for reconsideration regarding recent Board Orders, to arrange their schedules and line up witnesses, and at the same time conduct the proceedings in a fair, organized, logical fashion. In particular, CASE believes that the Board should receive, review, and act on motions for reconsideration of the Board's Scheduling Orders (to be mailed by expedited delivery on 1/13/84) and any responses by parties to CASE's 12/23/83 Response to Applicants' Identification of Issues and Proposal to Establish Hearing Schedule⁹ (to be mailed 1/12/84) prior to scheduling of hearings.

CASE's proposal of hearings on welding matters, other than other open issues, was derived because of the following considerations.

⁸ Other than "design" by construction personnel.

⁹ In its 12/28/83 Memorandum and Order (Scheduling Matters)(page 2, item 2), the Board authorized replies to CASE's 12/23/83 Response.

First two staff walkdowns of finished safety systems (in addition to the fuel building). Applicants have stated that there will be no areas available which the Staff could select for walkdowns until January 1984 at the earliest, and estimated that it appears unlikely that the Staff could complete two new walkdowns and be prepared to present its reports and other evidence in hearings before April-May of 1984¹⁰. Thus, it appears that it would be impossible to accurately schedule hearings on this matter at this time.

Change in material properties for A500 steel, welding, Walsh/Doyle allegations, CYGNA Report. The Board stated that it sees a possible relationship between its Walsh/Doyle decision and the A500 Steel question, but does not consider it profitable to receive evidence on this subject independent of some additional procedure such as the independent design review it has suggested. It also sees a relationship between CASE's continuing concerns about welding and its Walsh/Doyle decision.¹¹ The Board also stated that the CYGNA Report will be a subject of hearings because of its relevance to matters discussed in the Board's recent Walsh/Doyle decision¹². CASE has also requested hearings regarding some open items on the Walsh/Doyle allegations¹³. It would appear to CASE that the most logical approach would be to consider change in material properties for A500 steel, welding (regarding design), Walsh/Doyle allegations (open items on which CASE has requested hearings), and the CYGNA Report together in hearings regarding Walsh/Doyle matters at a

¹⁰ Applicants' 12/3/83 Identification of Issues and Proposal to Establish Hearing Schedule, page 9.

¹¹ Board's 1/3/84 Memorandum and Order (Additional Scheduling Order), page 6, item VII.

¹² Id., page 3, item II.

¹³ CASE's 12/23/83 Response to Applicants' Identification of Issues and Proposal to Establish Hearing Schedule, page 32.

time when the Board has decided which Walsh/Doyle items are appropriate for hearings. Further, since CASE witness Jack Doyle has just recently obtained employment after (he believes) he was blackballed for months, it would be difficult if not impossible for him to attend hearings during the next few months without possibly jeopardizing his new job. Hearings at a later time regarding these matters would enable him to participate without unnecessary and unfair jeopardy. Since there is still much to be done in the way of pleadings, analyses, etc., regarding these matters, hearings at a later time will result in fair, logical, and more productive conduct of these proceedings, and will not prejudice the rights of any party.

It should be noted that Applicants can speed up this process by complying promptly to the Board's 10/6/83 Order to file analyses demonstrating that pipe supports manufactured with A500 Steel for Comanche Peak Units 1 and 2 have adequate safety margins¹⁴ and the Board's 12/28/83 strong suggestion that Applicants have an independent design review of the plant¹⁵. Applicants have not responded to the 10/6/83 Order in the three months since it was filed, and CASE fully expects them to strongly oppose both the 10/6/83 Board Order and the 12/28/83 suggested independent design review. Such actions (and/or inaction) by Applicants will cause further delay in these proceedings, and it should be recognized that such delays will be the fault of the Applicants -- not the Licensing Board, the hearings process, or anything or anyone else.

¹⁴ Board's 10/6/83 Partial Initial Decision (Change in Material Properties for A500 Steel), page 8, item 1.

¹⁵ Board's 12/28/83 Memorandum and Order (Quality Assurance for Design), pages 1 and 73.

Intimidation, harassment, and threatening of quality control inspectors, craftspeople, and other employees¹⁶ (including allegation by Darlene Stiner of harassment for testifying, termination of Henry Stiner for reporting gouge in pipe to QC inspector, etc.); Applicants' follow-up inspection of protective coatings and other open items regarding protective coatings (near white blast, maximum roughness, adhesion testing, Westinghouse coatings, etc.); site tour to identify specific problems. The Board has ruled that hearings will be held on intimidation of quality assurance and craft¹⁷, that such hearings shall be deferred, pending completion of relevant investigations being conducted by the Office of Investigation¹⁸. The Board also stated that it considers the allegation by Darlene Stiner of harassment and the termination of Henry Stiner to be "open, litigable matters, that have not been adequately discussed in any prior decision"¹⁹.

The Board previously ruled that there would be hearings on Applicants' follow-up inspection of protective coatings²⁰, and other items were left open in previous Board orders²¹. In addition, it is CASE's understanding that the NRC has recently conducted an investigation regarding the quality of protective coatings at Comanche Peak. We assume that the NRC Staff will

¹⁶ CASE witnesses Walsh and Doyle have pointed out that the Board's (and CASE's) wording "intimidation of quality assurance and craft" appears to leave out engineers. We ask that the Board modify the wording of its Order to that shown above.

¹⁷ Board's 12/28/83 Memorandum and Order (Scheduling Matters) page 4, item 11.

¹⁸ Id., page 4, items 9 and 10.

¹⁹ Board's 1/3/84 Memorandum and Order (Additional Scheduling Order), pages 3 and 4, item IV.

²⁰ Board's 10/25/83 Memorandum (Procedure Concerning Quality Assurance), page 2.

²¹ See CASE's 12/23/83 Response to Applicants' Identification of Issues and Proposal to Establish Hearing Schedule, especially page 11.

present testimony regarding this in the upcoming hearings. We ask that the Board include in its orders that all completed investigation/inspection reports be promptly submitted to the Board and parties regarding protective coatings (similar to the Board's Order regarding intimidation matters²²). Depending upon what is contained in the investigation/inspection report(s), it may be necessary for CASE to request some limited discovery or to call additional witnesses in this regard.

CASE will be addressing certain aspects of the Board's order regarding the site tour to identify specific problems²³ in a motion for reconsideration (to be mailed 1/13/84). We will go into more detail at that time, but as indicated in our 12/23/83 pleading²⁴, we believe that this should be included as part of the Board's scheduling for hearings, rather than as a discovery item.

It appears to CASE that intimidation, etc., protective coatings matters, and the site tour to identify specific problems are all inter-related and could best be addressed in hearings at the same time (it might be necessary to extend hearings to three weeks in order to do this). This is especially true regarding intimidation and protective coatings matters, and some of the same individuals would be testifying regarding both matters. Combined hearings would enable CASE's witnesses to be present for one hearing rather than for two or three hearings. (Each witness would not necessarily have to attend every day of hearings.) CASE is especially concerned regarding possible adverse

²² Board's 12/26/83 Memorandum and Order (Scheduling Matters), page 4, item 10.

²³ Id., pages 3 and 4, item 8.

²⁴ CASE's 12/23/83 Response to Applicants' Identification of Issues and Proposal to Establish Hearing Schedule, page 32.

impacts on the jobs of those who will be testifying for CASE who have been working at those jobs for a short period of time (such as Mr. Dunham, for example).

Other open items: Computerization of non-conformances; reactor vessel mirror shield touching the shield wall during hot functional testing (HFT); inadequate disposition of NCR's.²⁵ These additional items which have not yet been closed by the Board are separate issues which do not readily fit in with other open items. CASE proposes that they be handled together, in conjunction with any other more-or-less miscellaneous matters ripe for hearing, at a later time or perhaps during a one-week-long hearing. If the Board agrees with CASE (after reviewing our Motion for Reconsideration of Scheduling Orders soon to be filed) that the site tour to identify specific problems should be included in the hearings schedule, it might be that the site tour could best be included with the miscellaneous matters rather than with intimidation and protective coatings matters.

Other matters proposed for hearings. There were several other matters contained in CASE's 12/23/83 pleading²⁶ which CASE believes should be or perhaps should be the subject of hearings. Since the Board has not definitely ruled at this time on whether or not they will be the subject of hearings, they are not appropriate for consideration at this time to be scheduled for hearings and will be addressed later, if appropriate.

²⁵ CASE's 12/23/83 Response to Applicants' Identification of Issues and Proposal to Establish Hearing Schedule, pages 25-26, 25, and 12, respectively.

²⁶ Id.: Polar Crane, and no traceability of materials until quality assurance becomes involved; qualifications of supervisory and other personnel; problems with welding on Chicago Bridge and Iron pipe whip restraints and moment restraints; problems with welding on NPSI pipe whip restraints; concerns raised by CASE witnesses (including I&E Report 83-27, Messerly concerns); credibility and/or competence of Applicants' and/or NRC Staff witnesses; operating quality assurance program for CPSES (Board Question 2); Applicants' overall commitment to QA/QC program; separate hearings for Unit 2 licensing; etc.

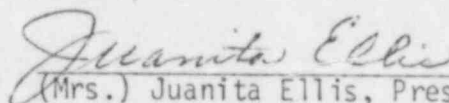
CONCLUSION

For the reasons set forth herein, CASE proposes that the next hearing be held:

On open welding issues (improper downhill welding, problems with control of welding rods, improper use and repair of "plug welds," weave welding or beading, cap welding, preheat requirements)

Tuesday, February 21, 1984, through Friday, February 24, 1984, and
Tuesday, February 27, 1984, through Friday, March 2, 1984.

Respectfully submitted,



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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of
CASE'S PROPOSED SCHEDULE FOR HEARINGS

have been sent to the names listed below this 9th day of January, 1984,
by: Express Mail where indicated by * and First Class Mail elsewhere.

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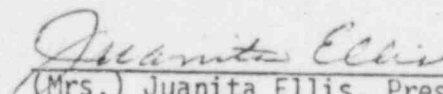
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