

May 18, 1984
84 MAY 21 11:28

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

APPLICANTS' PROPOSED SCHEDULE
FOR LITIGATION OF REMAINING ISSUES
AND FILING OF PROPOSED FINDINGS

I. INTRODUCTION

On May 8, 1984, Texas Utilities Electric Company ("Applicants") filed its motions for (1) a revised hearing schedule, (2) adoption of special procedures, and (3) clarification of issues. Therein, Applicants provided information in affidavit form regarding Applicants' schedule of late September, 1984, for fuel loading for Comanche Peak, Unit One. In view of this scheduled fuel load date, Applicants proposed that the Board adopt expedited schedules and special procedures to assure completion of litigation of the remaining issues in sufficient time to render a decision prior to fuel load.

otion. Applicants proposed that the Board adopt a
arings which would provide for four consecutive
gs, commencing with hearings on Wednesday, May 30
y, June 2, then resuming on Monday, June 4 and
ay through Friday, through June 22.^{1/} An addi-
ks of hearings were proposed, commencing July 9
through August 3.

II. APPLICANTS' PROPOSED SCHEDULE

propose below the schedule for litigation of all
s that will likely require hearings for resolu-
ve it is imperative that this schedule be estab-
that the parties may allocate their resources and
render a timely decision. Applicants believe that
ividual issues within the scope of the broad
hearings remain to be held are susceptible to
tion and, therefore, intend to seek such dis-
er possible.

has instructed that the parties be prepared to
itions, during the conference call next Tuesday,
e pending summary disposition matters are suscep-
tion on the pleadings. Following that discussion,
amably will specify which matters will be handled
s and which will be addressed at trial. Depending

modify, infra, this proposed schedule by suggest-
hearings commence on Monday, June 4, 1984 and run
per week through Friday, June 29, 1984.

on the outcome of this process and on whether the proposed special procedures are adopted, the time requested for trial by Applicants may be more than that actually required.

The remaining issues to be scheduled for hearings now are (1) Applicants' Plan (including Phase III of Cygna's efforts) in response to the Board's December 28, 1983, Memorandum and Order (Quality Assurance for Design), (2) Staff testimony regarding the Cygna IAP Report, (3) Staff walkdown (if necessary),^{2/} (4) intimidation, and (4) protective coatings. During the first four-week hearing session to begin on June 4, 1984, the parties should litigate to conclusion those aspects of Applicant's Plan not designated for resolution on the pleadings, Staff testimony regarding the Cygna IAP Report, and the Staff walkdown (if necessary). During the second four-week hearing session to begin on July 9, 1984, the parties should litigate to conclusion intimidation, Phase III of Cygna's efforts,^{3/} and protective coatings, to the extent that genuine issues of material fact pertaining to these matters remain following resolution of summary disposition pleadings.

^{2/} Applicants recognize that the Board has requested hearings regarding two Staff walkdowns of completed safety systems. Applicants have proposed that the Board reconsider the need to litigate any Staff walkdowns, and at most that the Board limit the scope to the walkdown which has already been completed, i.e., cable spreading room.

^{3/} Phase III of Cygna's efforts would be presented during the week of July 16-20, 1984.

Applicants also propose that the Board adopt an expedited schedule for the submission of testimony, calling for the parties to submit prefiled testimony seven days prior to the hearing session in which the topic is scheduled to be addressed (rather than twelve days, as presently required). Further, Applicants propose a schedule for the submission of proposed findings of fact. Applicants believe that the Board should call for the filing of proposed findings regarding issues already litigated (i.e., CAT, welding) consistent with the time limits set forth in 10 C.F.R. § 2.754.

With respect to those issues not yet litigated, Applicants propose that the Board adopt an expedited schedule from that set forth in 10 C.F.R. § 2.754. Applicants propose that the Board require proposed findings by Applicants to be filed twenty days after the record is closed on a particular issue. CASE and the Staff would submit their findings twenty-five and thirty days after the close of the record on a particular issue, respectively, followed by the filing of Applicants' reply findings (if any) within five days after the Staff's findings. Applicants submit that these schedules should not be suspended or otherwise altered during or due to conduct of the hearings. To postpone the filing of proposed findings until after completion of the last hearings would place an inordinate burden on the Board in the development of a decision following the final round of hearings. The Board has on many occasions requested that the parties begin preparation of proposed findings without waiting

for the Board to schedule their submission, and this schedule thus should not be unduly burdensome as to findings on issues already litigated. With respect to issues yet to be litigated, all parties will be under similar time constraints. Thus, no party would be unfairly treated by this schedule.

Finally, Applicants submit that the deadlines for filing responsive pleadings (particularly answers to discovery requests on intimidation), which presently are suspended during the conduct of hearings, must no longer be subject to such suspension.^{4/} It is imperative that the resolution of all matters proceed in a timely manner. The Board will, of course, be able to issue rulings on various pending motions orally during the hearing, if necessary.

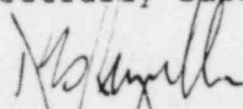
III. CONCLUSION

Applicants submit that the Board should adopt the schedule described above for the conduct of hearings on the remaining issues in this proceeding. In addition, the Board should establish the schedules and adopt the procedures for the submission and resolution of pleadings and filings not directly

^{4/} This request does not apply to answers to summary disposition motions on the matters addressed by Applicants' Plan, in view of the Board's approach designed to eliminate those issues from trial by designating them for resolution on the pleadings.

related to the hearings but necessary for the resolution of the remaining issues, (e.g., proposed findings of fact).

Respectfully submitted,



Nicholas S. Reynolds

BISHOP, LIBERMAN, COOK,
PURCELL & REYNOLDS
1200 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 857-9817

Counsel for the Applicants

May 18, 1984