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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

TEXAS UTILITIES GENERATING
COMPANY, et al.

(Comanche Peak Steam Electric Station
Station, Units 1 and 2)

Docket Nos. 50-445-1 and -2
50-446-1 and -2

CASE'S MOTION FOR ENLARGEMENT OF TIME
TO FILE RESPONSES TO BOARD ORDER AND TO APPLICANTS' RECENT MOTIONS
REGARDING INTIMIDATION MATTERS, SCHEDULING, AND OTHER ISSUES

Pursuant to 10 CFR 2.730(c), CASE (Citizens Association for Sound Energy), Intervenor herein, hereby moves that the Licensing Board grant CASE additional time to respond to the following Motions filed recently by Applicants:

1. Applicants' 5/8/84 Proposed Standard for Litigating Allegations of Intimidation;
2. Applicants' 5/10/84 Motion to Obtain Access to Information Regarding Investigations at Comanche Peak or for Alternative Relief;
3. Applicants' 5/8/84 Submission of Affidavit Regarding Fuel Loading for Unit One, and Motions for (1) Revised Hearing Schedule, (2) Adoption of Special Procedures, and (3) Clarification of Issues;
. . . as well as portions of the following Board Memorandum:
4. Board's 3/15/84 Memorandum (Clarification of Open Issues), page 20, item RR: wherein CASE was ordered to file expected findings of fact regarding trends or patterns of non-conforming conditions within five weeks from the Board's Memorandum.

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The reasons for CASE's Motion are as follows:

1. The primary reason for our Motion is because of CASE's attempts to arrive at a settlement with Applicants and NRC Staff regarding design and design QA issues. As the Board and parties are aware, CASE (and especially CASE's primary representative, Mrs. Ellis) has been deeply involved in discussions, negotiations, and research regarding a proposed possible settlement with Applicants and NRC Staff regarding design and design QA issues which are presently to be litigated in these proceedings. Our efforts have included discussions not only with the parties, but also among CASE's witnesses, Board of Directors, and others. We are currently in the process of researching possible precedents which may be helpful, and working up a more detailed summary of what CASE believes would be necessary for such a settlement. Because of the importance of this possible settlement to the Board and all parties, and the imminence of lengthy and difficult hearings on these matters (which are currently scheduled to resume next Tuesday, May 29), CASE's primary representative has been devoting virtually all of her attention and resources to attempting to arrive at some basis for settlement which would be acceptable to CASE, as well as the Board and other parties. Because of CASE's very limited resources, this has meant that it has simply been impossible to also work on other matters and complete them as quickly as we normally would have. We believe that these efforts toward settlement can be fruitful and hopefully will result in a mutually acceptable settlement in the near future.

2. Items 1, 2, and 3 (all recent Motions by Applicants) for which CASE seeks additional time to respond are directly related, in varying degrees, to the issue of intimidation. As the Board and parties are aware, CASE has been attempting for some time to retain an attorney to work on the issue of intimidation. However, there have been many arrangements which had to be made and many details which had to be worked out; these are taking longer than CASE had anticipated. We are hopeful that we will have arrangements made for an attorney sometime this week, and will advise the Board and parties as soon as we have a definite answer on this. In any event, we will be discussing this further with the Board and parties during the conference call currently scheduled for Thursday, 5/24/84, at 9:00 A.M. our time.

It is essential that any attorney working with CASE on the issue of intimidation have input into CASE's answers to Applicants' three motions, which will affect the scope, timing, procedures, and standards to be employed in litigating this vitally important issue. It is also necessary for us to have sufficient time to go over the case with such attorney so that he/she can properly prepare our case, and so that the hearings can be handled in the fairest but most expeditious manner possible. This fair-but-expeditious standard is in keeping with the Board's usual practice and, at the same time, is in the best interest of all the parties since proper preparation will actually save time in the hearings.

3. With regard to the expected findings of fact regarding trends or patterns of non-conforming conditions (the fourth item for which CASE seeks an extension of time), as indicated to the Board and parties last week, we simply have not had sufficient time with our other pressing responsibilities to prepare these proposed findings.

First, it should be pointed out that the premise on which the Board's Order to CASE in this regard was based /1/ (to avoid surprise) is incorrect, since the parties have been on notice of CASE's intentions in this regard since July 28, 1982, almost two years ago. At that time, CASE stated /2/:

"Initially our case was going to be based . . . primarily on cross-examination and on documents. . . When we began looking through the nonconformance reports and some of the other documents, we began to see certain things appearing more and more, and we started doing a very rough kind of trending ourselves, you might say. . .

"The problems that have occurred and kept recurring, we feel represent a breakdown in the QA/QC program and in particular in the QA/QC program insofar as its working to stop repetitive things from happening. . .

". . . our primary goal with the documents was to be able to show . . . that there is a trend and the repetitive nature of some things that have occurred. . .

". . . one of the things that has concerned us in looking at these is that it appears to us that many times a supposed solution apparently did not prevent it from occurring again and again and again; and if it did not, then it wasn't really solved, if it keeps recurring again and again."

Thus, all parties have been on notice for almost two years of CASE's concerns and intentions in this regard. This hardly

/1/ 3/15/84 Board Memorandum, page 20, item RR.

/2/ 7/28/82 hearings, Tr. 3008/6-16, 3009/9-13, 3011/21-24, 3019/20-25.

constitutes surprise. It should also be noted that, in those nearly two years, it is possible that some of the trends which were apparent initially may have been corrected. This possibility was one of the reasons CASE recently requested an updating of certain documents on trending, NCR logs, etc. We certainly have no intention of beating a dead horse by pointing out what initially appeared to be undetected trends which may have now been corrected. We received updates of some (but not all) of the documents we have requested in this regard only on April 13 and 16, about a week before the last set of hearings; we have not really looked at them since that time, and certainly have not had an opportunity to review and analyze them to the point where we can possibly prepare trending information yet.

In addition to the reasons already discussed, it is important to understand the magnitude of the effort the Board is asking. To force CASE now into the position of either having to forget this portion of our concerns and findings or having to try to work such trending right now into our already impossible schedule would in effect rob CASE of what can be an important part of our findings and a valuable analysis for the Board. In addition, it would force CASE at this time to prepare proposed findings on CAT matters, which the Board has already ruled do not have to be done at this time /3/. What we planned to do was to consider at the end of the hearings, after all the issues had been litigated, which matters appeared at that time to indicate trends which

/3/ Board's 1/3/84 (served 1/4/84) Memorandum and Order (Additional Scheduling Order), Item II, pages 2 and 3.

either had not been identified and/or had not been adequately addressed and corrected.

If the problem actually is that the Staff fears surprise, CASE would have no problem with Applicants and Staff being afforded additional time following the filing of proposed findings in which to comment on CASE's proposed findings in this specific regard. Since it is impossible for CASE to adequately prepare proposed findings in this regard until the hearings are closed and it can be ascertained with more certainty which items actually need to be included in our trending, this procedure seems fair to CASE. For these reasons, we move that the Board allow CASE to file proposed findings in this regard after the close of the record, with additional time being allowed Applicants, NRC Staff, and the State of Texas to respond to CASE's proposed findings in this specific regard.

For the reasons discussed herein, CASE hereby moves that the Board grant CASE an enlargement of time to respond to the pleadings and Order set forth below:

Extend CASE's filing time from May 21, 1984, until June 12, 1984, to respond to the following pleadings:

1. Applicants' 5/8/84 Proposed Standard for Litigating Allegations of Intimidation;
2. Applicants' 5/10/84 Motion to Obtain Access to Information Regarding Investigations at Comanche Peak or for Alternative Relief; and

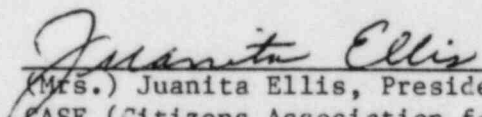
3. Applicants' 5/8/84 Submission of Affidavit Regarding Fuel Loading for Unit One, and Motions for (1) Revised Hearing Schedule, (2) Adoption of Special Procedures, and (3) Clarification of Issues.

Extend CASE's filing date until the close of the record for responding to:

4. Board's 3/15/84 Memorandum (Clarification of Open Issues), page 20, item RR: wherein CASE was ordered to file expected finding of fact regarding trends or patterns of non-conforming conditions within five weeks from the Board's Memorandum.

Further, that the Applicants, NRC Staff, and the State of Texas be granted additional time in which to respond to CASE's proposed findings in this specific regard.

Respectfully submitted,



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

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	}}	
	}}	
TEXAS UTILITIES ELECTRIC	}}	Docket Nos. 50-445-2
COMPANY, <u>et al.</u>	}}	and 50-446-2
(Comanche Peak Steam Electric	}}	
Station, Units 1 and 2)	}}	

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of
CASE'S MOTION FOR ENLARGEMENT OF TIME TO FILE RESPONSES TO BOARD ORDER AND TO
APPLICANTS' RECENT MOTIONS REGARDING INTIMIDATION MATTERS, SCHEDULING, AND OTHER
ISSUES

have been sent to the names listed below this 21st day of May, 1984,
by: Express Mail where indicated by * and First Class Mail elsewhere.

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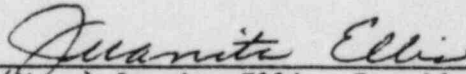
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