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June 4, 1984

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD JUN -6 11:58

In the Matter of)
)
TEXAS UTILITIES ELECTRIC)
COMPANY, et al.)
)
(Comanche Peak Steam Electric)
Station, Units 1 and 2))

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH
Docket Nos. 50-445-2
and 50-446-2

CASE'S REQUEST FOR DISCOVERY OF THE
NUCLEAR REGULATORY COMMISSION STAFF

Pursuant to 10 CFR §2.740 CASE respectfully requests discovery of the Nuclear Regulatory Commission ("NRC") staff through oral examination (§2.740a); written interrogatories (§2.740b); and for production of documents (§2.741) on the issue of harassment and intimidation. This issue has been admitted as a contention in this proceeding and is therefore covered under §2.740(1) "General Provisions Governing Discovery," and relevant NRC case law, as well as Rule 26 of the Federal Rules of Civil Procedures. (The scope and definition of the harassment and intimidation issue has not yet been defined. CASE will file a proposed standard on this issue on June 12, 1984.)

CASE's counsel has discussed this request with the NRC counsel in an attempt to reach an agreement whereby informal discovery would be acceptable to both parties. We have not abandoned the hope that the NRC Staff will provide the requested information without opposition on this issue.

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CASE's interest in discovery of the staff on this issue recognizes that discovery against the Staff is on different footing than discovery in general. See generally, Pennsylvania Power and Light Co., (Susquehanna Steam Electric Station, Units 1 & 2), ALAE-613, 12 NRC 317, 323 (1980). In fact it is the unique position of the Staff on this issue that invites this discovery request by CASE. Quite frankly, the information and knowledge available to the staff is critical to a complete and full hearing on the issue of harassment and intimidation, and even more relevant to the Board's resolution of this issue. Such information as the Staff has developed during the course of its regulatory duties that bears on the issue (as will be defined by the Board) is properly discoverable under both NRC and administrative law. This is particularly true on the issue of harassment and intimidation where relevant evidence known to the staff is simply not available from any other source.

CASE requests that the Board grant discovery for the following information:

All information developed in connection with any inspections, investigations, evaluations, team reviews, or any other probe (by any name), which is not privileged, by any member of the Nuclear Regulatory Commission staff. This requests includes but is not limited to all staff members and inspections of and by Region IV of the Inspection and Enforcement Division, investigators of the Office of Investigations, the Office of Inspector and Auditor, inspectors and/or technical staff of the Office of Nuclear Reactor Regulations, the members of the various special inspection teams including the Construction Appraisal team, the

Special Inspection Team, the Systematic Appraisal of Licensing Performance Board, and members of the special study of the problems of protective coatings undertaken by the Brookhaven National Laboratory and selected members of the NRC. It also includes the members of the special Task Force sent to Comanche Peak last month, and any other inspection efforts which have been, are, or will be undertaken by the staff in an effort to ascertain the extent of any construction and quality assurance/quality control problems at the site.

This information should include all internal reports prepared on the subject of harassment and intimidation, all allegations given to the NRC about incidents which included harassment and intimidation in the opinion of the alleged, all notes to the file by inspectors, investigators, or staff which were prepared in the course of their investigations or inspections, reviews, etc., and are not privileged, copies of all press releases prepared to answer public charges on the subject of harassment and intimidation, all briefings prepared by the staff to be given to other agency officials, all notes of meetings which discuss the problems of either individuals employees who allege that they were harassed or intimidated or of the problem on a larger scale. This should include any interview notes, depositions, statements, anonymous phone call tips, complaints, unsigned letters of complaint, and all other notes to the file regarding those. For all materials identified and withheld those materials should be described in sufficient detail to determine whether or not the privileged claimed is a valid privilege. This

should also include all reports or memorandum prepared internally to be responsive to requests for explanations about allegations or evidence of harassment and intimidation by members of Congress or other elected or appointed officials.

CONCLUSION

As previously stated CASE earnestly requests that all relevant information, which is not privileged, be voluntarily disclosed to all parties as soon as is possible in order to facilitate the preparation and presentation of this issue to the Board. In the absence of such cooperation CASE must appeal to the Board, as it does now, with our request for discovery of the Staff.

Respectfully submitted,

Anthony Z. Roisman *per*

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
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TEXAS UTILITIES GENERATING)	
COMPANY, et al.)	Docket Nos. 50-445-2
)	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 Request For Discovery Against The NRC Staff has been sent to the names listed below this 1st day of June, 1984, by: Express mail where indicated by *; Hand-delivery where indicated by **; and First Class Mail unless otherwise indicated.

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