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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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 *OL-2*
and 50-446 *OL-2*

APPLICATION FOR ISSUANCE OF
SUBPOENA FOR NRC STAFF WITNESSES

Citizens Association for Sound Energy (CASE), Intervenor in this proceeding, by and through its attorney, hereby apply to the Atomic Safety and Licensing Board for the issuance of a subpoena to the following employees of the Nuclear Regulatory Commission staff:

Mr. Brooks Griffin
Office of Investigations
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 1000
Arlington, Texas 76011

Mr. Robert Stewart, Inspection Region IV
Mr. Dan Tomlison, Inspector Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 1000
Arlington, Texas 76011

8407060098 840702
PDR ADOCK 05000445
G PDR

DS03

Our request is for the purpose of requiring the above-named individuals to appear and give testimony upon oral deposition, pursuant to Section 2.720 of the Commission's regulations. A copy of the proposed subpoena is attached hereto.

The Chairman of the Licensing Board, or, if he is not available, a designated officer, is authorized to issue the proposed subpoena pursuant to Section 2.720, which provides that on application by any party, the designated presiding officer, or other designated officer, will issue subpoenas requiring the attendance and testimony of witnesses or the production of evidence.

According to Section 2.720(h)(2)(i), "in a proceeding in which the NRC is a party, the NRC staff will make available one or more witnesses designated by the Executive Director for Operations (EDO) for oral examination at the hearing or on deposition regarding any matter, not privileged, which is relevant to the issues in the proceeding." Further, this section states that "attendance and testimony of the Commissioners and named NRC personnel" may not be required by the presiding officer, by subpoena or otherwise: Provided, that the presiding officer may, upon a showing of exceptional circumstances, such as a case in which a particular named NRC employee has direct personal knowledge of a material fact not known to the witnesses made available by the EDO require the attendance and testimony of named NRC personnel. (emphasis added.)

Pursuant to Section 2.720(b), the proposed subpoena is attached hereto to advise of the quashing procedure provided in paragraph (f) of Section 2.720.

The "exceptional circumstances" which require the attendance of the NRC employees, whose attendance we subpoena, is precisely for the reasons described in Section 2.720(h)(2)(i). Those reasons are briefly described below for each:

Mr. John Collins, Regional Administrator
Mr. Richard Herr, Office of Investigation
Mr. Don Driskoll, Office of Investigation
Mr. Thomas Ippilito, Director, Comanche Peak Task Force

In response to the Board's wish that we reduce the need for witnesses we are withdrawing our request for production of these witnesses with the following caveat:

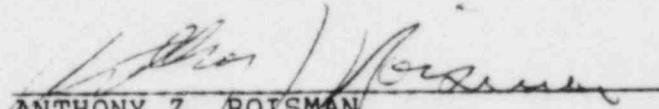
- 1) should Staff or Applicant seek to offer in evidence or rely upon any documents or reports prepared by or under the supervision of any of these persons with respect to the harassment and intimidation issue we reserve the right to renew our request for their attendance;
- 2) should the Board conclude that testimony regarding the conduct of these persons as presented by other witnesses is incomplete without also hearing from one or more of these persons we reserve the right to renew our request for their attendance.

Mr. Dan Tomlinson, Regional Inspector
Mr. Robert Stewart, Regional Inspector
Mr. Brooks Griffin, Office of Investigation

Messrs. Tomlinson, Stewart and Griffin participated in an interview of Mr. Dennis Culton on November 8 and November 12, 1982. Following this interview, Mr. Culton filed an affidavit on

June 29, 1983, in which he alleged that he was, in essence, badgered and intimidated by the named NRC employees. Only the named employees can provide their version of the events described by Mr. Culton.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Anthony Z. Roisman", is written over a horizontal line.

ANTHONY Z. ROISMAN
Trial Lawyers for public justice
2000 P Street, N.W., Suite 611
Washington, D.C. 20036
(202) 463-8600

United States of America

NUCLEAR REGULATORY COMMISSION

In the matter of:

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

DOCKET NOS. 50-445-2
50-446-2

TO

Brooks Griffin
Office of Investigation
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 1000
Arlington, Texas 76011

YOU ARE HEREBY COMMANDED to appear ...[TO BE DETERMINED].....

in the city of

on the.....day of.....19.....at.....0'clock M.

to testify on behalf of ...CASE.....

in the above entitled action and bring with you the document(s) or object(s) described
in the attached schedule.

BY ORDER OF THE ATOMIC SAFETY AND LICENSING BOARD

BY

ATTORNEY FOR CASE
Anthony Z. Roisman
2000 P Street, N.W.
Washington, D.C. 20036
TELEPHONE (202) 463-8600

.....19.....

10 C.F.R. 2.720 (f)

On motion made promptly, and in any event
at or before the time specified in the subpoena
for compliance by the person to whom the sub-
poena is directed, and on notice to the party at
whose instance the subpoena was issued, the

presiding officer or, if he is unavailable, the
Commission may (1) quash or modify the sub-
poena if it is unreasonable or requires evidence
not relevant to any matter in issue, or (2) con-
dition denial of the motion on just and reasonable
terms.

United States of America

NUCLEAR REGULATORY COMMISSION

In the matter of:

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et al.
(Comanche Peak Steam Electric
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DOCKET NOS. 50-445-2
50-446-2

TO

Robert Stewart
Inspector, Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 1000
Arlington, Texas 76011

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July 2, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION '84 JUL -5 P2:00

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))

06-2

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of CASE's Application For Issuance Of Subpoena For NRC Staff Witnesses have been sent to the names listed below this 2nd day of July, 1984, by: Express mail where indicated by *; Hand-delivery where indicated by **; and First Class Mail unless otherwise indicated.

- ** Administrative Judge Peter B. Bloch
U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board
Washington, D.C. 20555
- ** Herbert Grossman, Alternate Chairman
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Kenneth A. McCollom, Dean
Division of Engineering, Architecture
and Technology
Oklahoma State University
Stillwater, Oklahoma 74074

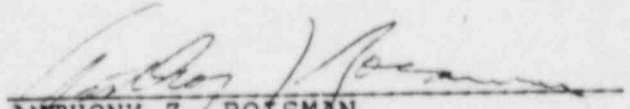
Dr. Walter H. Jordan
881 W. Outer Drive
Oak Ridge, Tennessee 37830

- ** Ms. Ellen Ginsberg, Law Clerk
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
- ** Nicholas S. Reynolds, Esquire
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& Reynolds
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- ** Stuart Treby, Esquire
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U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
- ** Geary S. Mizuno, Esquire
Office of Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
- ** Chairman
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
- ** Chairman
Atomic Safety and Licensing Appeal
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
- Renea Hicks, Esquire
Assistant Attorney General
Environmental Protection Division
Supreme Court Building
Austin, Texas 78711
- John Collins
Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 1000
Arlington, Texas 76011
- ** Docketing and Service Section (3 copies)
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Washington, D.C. 20555

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