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RELATED CORRESPONDENCE

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NUCLEAR REGULATORY COMMISSION

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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-DL
and 50-446-DLCASE'S ANSWER TO APPLICANTS' 10/19/84 MOTION FOR RECONSIDERATION
OF BOARD ORDER GRANTING DISCOVERY ON CROSSOVER LEG RESTRAINTS

Pursuant to 10 CFR 2.730(c), CASE (Citizens Association for Sound Energy), Intervenor herein, hereby files this, its Answer to Applicants' 10/19/84 Motion for Reconsideration of Board Order Granting Discovery on Crossover Leg Restraints, received by CASE on 10/20/84. Applicants' arguments are without merit, as will be discussed herein, and the Board should so find.

Applicants argue, on the one hand, that "undue attention should not be focused on individual, isolated construction or quality assurance deficiencies" and that "Such deficiencies are not unusual and are independently irrelevant to the ultimate question of whether the plant has been constructed properly." (Applicants' Motion at page 2). They further argue that "Given the large number of NRC inspections of Comanche Peak which have been conducted and which will be conducted, a clear showing of the programmatic significance of a single notice of violation or alleged deficiency should be required prior to admitting it for litigation and allowing discovery." We will address the importance of this particular violation first.

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CASE addressed the importance of the cross-over leg restraints in its 8/18/84 Partial Answer in Opposition to Applicants' Motion for Authorization to Issue a License to Load Fuel and Conduct Cxrtain Precritical Testing, at pages 12-14, where we stated, in part:

"In this I&E Report, Applicants were cited with a Notice of Violation (Appendix A of Report) for:

"Failure to Perform Inspections of Installation Activities
Related to Unit 1, Main Coolant System Crossover Leg Restraints"

. . . "Contrary to the above [regulations and procedures], it was determined that inspections were not made of the installations of the Unit 1 crossover leg restraints, nor were any documents requiring such an inspection issued. Specifically, the requirements for installation, as specified in Gibbs & Hill drawing 2323-S1-0550, were not inspected and documented. The eight crossover restraints (2 per loop) are major components of the main coolant piping seismic restraints and support system..."

". . . Although the total disregard for NRC regulations (and the Applicants' own requirements) for inspection and documentation of these vitally important restraints is, in and of itself, disturbing enough, there is another aspect not discussed in the I&E Report to which we now call the Board's attention.

"As CASE understands it, these restraints are rupture restraints, used for energy dissipation. They are passive under normal conditions (normal, upset, and emergency), but they are absolutely critical to the survivability of the plant in the event of a double guillotine break. (It should be noted that Applicants have made an assumption of where the pipe can break, but that does not necessarily mean that that is where it's going to break. There could also be a horizontal break at the nozzles of the steam generator or the recirculating pump, for instance.)

"If these cross-over leg restraints cannot take the load during such an event (i.e., if they fail), the effects of the double guillotine break are transferred by couple into the upper and lower lateral restraints for the steam generator. It is CASE's belief that these two cross-over leg restraints (for each loop) take a vertical component in one direction and a horizontal component in one direction, and that they are bi-directional supports, whereas they should be tri-directional supports (only restrain 2 degrees of freedom, whereas they should restrain 6 degrees). If the cross-over breaks, it would be similar to a jet engine (i.e., the steam comes out like a jet); it causes the steam generator to, in effect, take a flip, but the angle there stops it from doing that. If the cross-over restraints fail in their function, then the only restraint left for the steam generator (at

least) are the upper and lower lateral restraints (which are already in question); and the loading into the effects has not been included into the analysis of the upper and lower lateral restraints because Applicants are relying on the ability of these cross-over restraints to dissipate their portion of the energy. One must consider that each element of the restraint system has got to contribute its own weight in the dissipation of energy in the event of an accident, and the failure of any one of these elements transfers an additional, unanticipated, and unanalyzed load to other parts of the system.

"Further, CASE questions whether or not the upper and lower lateral restraints have been inspected either. (To what criterion, to what requirement were they inspected? To the earlier criterion, which failed completely? Or to the latest, where both the upper and the lower lateral restraints were included?)"

As Applicants indicated in their 9/14/84 Response to CASE Motion for Discovery Regarding Inspections of Main Coolant System Crossover Leg Restraints (page 1), the Board agreed with Applicants that this matter is irrelevant to the Applicants' Motion to Load Fuel. However, Applicants forgot to mention that the Board also stated that this matter is irrelevant to concerns raised by CASE regarding the upper lateral restraint -- because the crossover leg restraints must work. The Board therefore has recognized the importance of these particular items to the ability of the plant to operate safely. CASE submits that, because of the fact that these crossover leg restraints must work, this particular matter is of sufficient importance in and of itself to justify the Board's allowing CASE to pursue it further.

/1/.

/1/ See also CASE's 10/1/84 Answer to Applicants' 9/13/84 Supplement to Motion for Authorization Pursuant to 10 C.F.R. 50.57(c), bottom of page 8, and Attachment F thereto, pages 35058-35061 of the 9/5/84 FEDERAL REGISTER, regarding Applicants' request for an exemption from postulating circumferential and longitudinal pipe breaks in the Reactor Coolant System (RCS) primary loop (hot leg, cold leg and cross-over leg piping), etc. It appears that the Board may have added reason for looking further into this matter because of the Staff's and the Applicants' position, in that the cross-over leg restraints may be receiving less attention than they would otherwise have.

Clearly, if Applicants did not make inspections of something as important as the Unit 1 crossover leg restraints or even have issued any documents requiring such an inspection -- as was stated in the NRC Notice of Violation -- there are serious implications regarding this omission in Applicants' QA/QC program. If this is indeed the case, one must next ask whether there are other equally important inspections for which there have been no inspections and no documents requiring such inspections. CASE is not willing, and the Board should not be willing, to take Applicants word on a matter as important as this without supporting documentation to back up Applicants' statements -- especially in light of the very specific wording in the NRC Inspection Report. It should be noted that the NRC Staff has not filed anything stating that the NRC inspectors were mistaken when they made their statements in the report. It should also be noted that Applicants have not disputed the fact that the cross-over legs must work.

Applicants claim that the Board has distorted the use of discovery. Applicants are incorrect. As the Board has noted in its 10/5/84 Memorandum and Order (Discovery on Cross-Over Leg Restraints), "[t]his violation relates to the open item concerning the adequacy of documenting of deficiencies through inspection checklists." Even if one were to accept Applicants' representation that documentation does exist, there was apparently a breakdown in records retrievability. In addition, clearly the matters discussed in the Notice of Violation are directly relevant and material to CASE's QA/QC Contention 5. As such, they come under that portion of the Board's 3/15/84 Memorandum (Clarification of Open Issues) wherein the Board stated (page 5):

"Although we are litigating many subissues, that should not obscure the overall licensing concerns from view. Our clarification of the subissues does not remove these overall concerns from the proceeding, and we foresee the possibility that some evidentiary hearing sessions will be needed to resolve these more global issues. .

"Let us also caution the parties that should important new safety concerns or allegations, relevant to this contention, come to light, they will be admitted for consideration by this Board. Furthermore, the trial of some issues may reveal interrelationships among issues or may give rise to new issues, and those implications may require exploration."

If Applicants can satisfy the legitimate concerns of CASE and the Licensing Board, it seems to CASE that they would welcome the opportunity to do so as expeditiously as possible. If there is no reason for continued concern after reviewing Applicants' answers and documents, CASE has plenty of other matters to keep it busy. As the Board is aware, CASE has not, as Applicants imply at page 2 of their Motion, attempted to litigate "every reported or alleged deficiency." We have heeded the Board's admonition in its 3/15/84 Memorandum (Clarification of Open Issues), at page 3, that:

"On the part of Citizens (sic) for Sound Energy (CASE), we urge increased paring of arguments so that its efforts will be focused on matters it considers truly important."

In fact, there are many inspection reports which we probably should have pursued but did not because we simply did not have the time or were unable to pursue them in a timely fashion. It is notable that, instead of Applicants promptly responding in this particular instance and thus proving that there is no cause for concern, their response reminds one of the old adage, "Me thinks the lady protesteth too much."

The fact is that the Applicants' 9/14/84 Response to CASE Motion for Discovery Regarding Inspections of Main Coolant System Crossover Leg

Restraints was not sufficient to answer the many questions raised by this violation, as is demonstrated by the questions and requests for documents contained in CASE's 10/18/84 Discovery Requests to Applicants Regarding Cross-Over Leg Restraints. Had Applicants' Response answered those questions and supplied those documents, the Board's 10/5/84 Memorandum and Order and CASE's discovery requests would not have been necessary.

Applicants also seem to have lost sight of some of the basic, accepted, reasons for discovery. As stated in the Appeal Board's Decision in Susquehanna /2/:

" . . . the courts have long recognized that parties are entitled to discover all matters not privileged that tend to support or negate the allegations in the pleadings, or which are reasonably calculated to reveal such matters . . . " (Decision at page 24.)

" . . . 'Pleadings' and 'contentions' no longer describe in voluminous detail everything the parties expect to prove and how they plan to go about doing so. Rather, they provide general notice of the issues. It is left to the parties to narrow those issues through use of various discovery devices so that evidence need be produced at the hearing only on matters actually controverted. This is why curtailing discovery tends to lengthen the trial -- with a corresponding increase in expense and inconvenience for all who must take part. . . " (Decision at page 30; emphases added.)

While CASE believes that it is imperative that the Board allow us the discovery sought regarding this important issue, we also note that CASE is hopeful that it will not be necessary to have hearings on this particular matter and that this can be handled by mail (similar to the manner in which the Motions for Summary Disposition are being handled).

At page 4 of their Motion, Applicants provide the definition of a Severity Level IV violation. However, there is one important aspect which Applicants have overlooked. There is no indication that the NRC inspector,

/2/ In the Matter of Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (Susquehanna Steam Electric Station, Units 1 and 2), Decision, September 23, 1980, (ALAB-613).

in preparing his report, attempted to ascertain the global implications of this violation. Similarly, there is no indication that the NRC Staff will attempt to ascertain the global implications of this violation in the future /3/. However, the Licensing Board must concern itself with such global implications and must allow CASE to pursue discovery regarding this matter in sufficient detail for CASE to be in a position to assist the Board so that it will be able to make a determination of the global implications of the violation.

There is one other matter which CASE must address. We are tired of Applicants constantly implying (page 3 of their Motion, for instance) that the Atomic Safety and Licensing Board is unfairly and prejudicially favoring CASE to the detriment of Applicants. CASE has received many important adverse rulings from the Board. The following immediately come to mind: We had an adverse ruling on the LOCA/thermal expansion/constraint of free-end displacement issue. We received an adverse ruling on the AW3/ASME (welding) issue. There are others, such as the Board's ruling that CASE was in default on some contentions. CASE's President has been so overworked that she has been unable to attend a single one of the hearings on the

/3/ CASE takes no comfort, and the Board should place no credence, in the statement by Applicants at page 4 of their 9/14/84 Applicants' Response to CASE Motion for Discovery Regarding Inspections of Main Coolant System Crossover Leg Restraints:

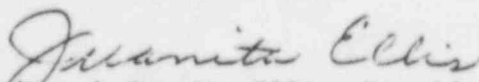
"It is because the NRC Staff is involved to see such matters through that the Board need not address each new matter in the operating license hearings."

This is a weak argument indeed, based on the handling of past inspection reports by NRC Region IV, at least one of which has been recently brought to the Board's attention in the Intimidation phase of the hearings, and some of which are currently being reinvestigated by the NRC's Technical Review Team (TRT) and being found to contain matters of concern to the TRT which had previously been closed out by Region IV.

intimidation issues in these proceedings (and she does not expect to be able to attend any of the rest of them). And CASE even received an adverse ruling wherein the Licensing Board ordered that Applicants would be allowed to relitigate the design/design QA issues -- without the Applicants even having shown good cause! This one ruling alone has resulted in hundreds of additional hours of work, severe physical and mental burdens, tremendously increased costs of mailing, postage, etc., for CASE and its two engineering witnesses. (If the Board is showing favoritism towards CASE, perhaps we should ask that they stop doing us favors!) However, we have persevered despite these severe additional burdens, for one reason. CASE is convinced that this Licensing Board is deeply concerned about the manner in which Comanche Peak has been designed and constructed, and that they are attempting to ascertain the truth and to do the job which they were mandated to do -- to assure themselves that they have a complete record on which to make an informed, unbiased, decision as to whether or not to grant an operating license for this nuclear power plant. This is what they are supposed to do.

For the reasons discussed herein, the Board should deny Applicants' Motion and allow CASE the discovery requested in our 10/18/84 pleading.

Respectfully submitted,


(Mrs.) Juanita Ellis, President
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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. 50-445-1
COMPANY, <u>et al.</u>	}}	and 50-446-1
(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 ANSWER TO APPLICANTS' MOTION FOR RECONSIDERATION OF BOARD ORDER GRANTING
DISCOVERY ON CROSSOVER LEG RESTRAINTS

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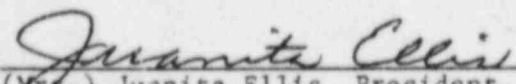
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