

## TEXAS UTILITIES GENERATING COMPANY

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MICHAEL D. SPENCE  
PRESIDENT

November 26, 1984

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OFFICE OF SECRETARY  
DOCKETING & SERVICE  
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The Honorable Nunzio J. Palladino, Chairman  
 The Honorable James K. Asselstine  
 The Honorable Fred M. Bernthal  
 The Honorable Thomas M. Roberts  
 The Honorable Lando W. Zech, Jr.  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

Subject: Texas Utilities Electric Company, et al.  
 (Comanche Peak Steam Electric Station,  
 Units 1 and 2); Docket Nos. 50-445 and 50-446

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Dear Commissioners:

By letters to you dated October 11 and 12, 1984, the intervenor (CASE) in the Comanche Peak proceeding and the Government Accountability Project (GAP), respectively, commented upon various aspects of this operating license application. GAP is assisting intervenor CASE in the licensing hearings. We recognize that because these letters were served upon the parties to the proceeding, they do not constitute ex parte communications under the Commission's Rules of Practice. Nevertheless, we consider it inappropriate for these organizations to attempt to influence Commission opinion regarding any aspect of the Comanche Peak proceeding by means outside of the hearing process in which both are participating. However, because they have done so, we wish to respond.

In the first instance, CASE's concern regarding the new head of the Technical Review Team for Comanche Peak is misplaced. Mr. Vincent S. Noonan of the NRC Staff has been designated the new head of the TRT, not the Administrator of Region IV as CASE asserts. Thus, the pretense for CASE's letter is unfounded.

Further, CASE's attack on Region IV is meritless. The Commission should note that CASE and GAP have never been and will never be satisfied with the NRC review of allegations. These are organizations that are intent on preventing the licensing of the Comanche Peak plant, and it has been a tactic of both to attack the regulator, as well as the plant, in an effort to achieve that result. Thus, their claims do not represent a balanced view of the NRC review process.

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A DIVISION OF TEXAS UTILITIES ELECTRIC COMPANY

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GAP's assertion that Texas Utilities Generating Company has "totally disregarded every step of its construction procedures and QC procedures" is ridiculous. One must question GAP's motive in writing to the Commission about matters which are being fully ventilated before the Licensing Board. Was it an attempt to bring pressure to bear on the Licensing Board? Perhaps it was designed to achieve some other result. In any event, we find it to be inaccurate on the merits and inappropriate as a tactic.

We are particularly troubled with this attempt to present evidence to the Commission, outside the context of the licensing or Staff review processes, concerning matters which are now being litigated. We do not feel that the "on the record" nature of the communication cures the blatant attempt to influence Commission opinion. This suggests that perhaps the Commission's rule on ex parte contacts should be reevaluated.

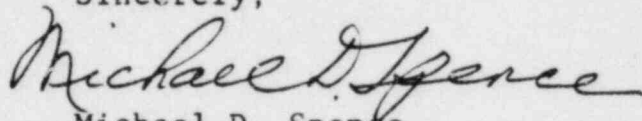
The October 10 letter of GAP demonstrates that these organizations are seeking to manipulate the NRC's process for consideration of allegations in order to delay licensing action. These organizations assemble allegations against the plant, then present some to the Licensing Board for resolution. But the bulk are parceled out to the Office of Investigations and/or other Staff offices. The process proceeds in parallel - the allegations before the Board are litigated; the allegations before the various branches of the Staff are investigated and resolved. The delay is experienced because the Licensing Board perceives the need to await the outcome of the Staff investigations so that any matters which may be relevant to issues before it may be considered by the Board. This will result in the same allegations being addressed at least twice by different offices of the NRC, an obvious and significant inefficiency and inequity which the opponents of nuclear power perceive and are exploiting. This will also result in the denial of our right to an efficient and timely decision on our application. Thus, I am concerned that manipulation of the process by these organizations create delay without any safety benefit. Perhaps the Commission should consider this serious problem in the context of its ongoing review of the NRC's approach to allegations management.

The immediate victims of this inefficiency are the owners of the Comanche Peak plant. The ultimate victims are the electric ratepayers of Texas. I am certain that each of you knows that additional costs associated with any delay in the licensing of this plant are staggering. Furthermore, delay also could result in this plant not being available to meet energy demands when it is needed during the summer of 1985.

Let me state that I fully support the NRC's efforts to assure that Comanche Peak is designed and constructed properly and will be operated safely. We have always been and remain committed to those results. We consider the Technical Review Team's review to have been comprehensive and rigorous, and we have cooperated with it fully and in the spirit of our obligation to conduct our activities safely. We welcome the review as a method through which to assure that Comanche Peak has been designed and constructed safely.

We appreciate the opportunity to respond to the letters to the Commission from GAP and intervenor CASE.

Sincerely,

  
Michael D. Spence

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cc: Service List