

5/11/81

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

RELATED CORRESPONDENCE

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

the Matter of  
TEXAS UTILITIES GENERATING COMPANY, ET AL.  
(Comanche Peak Steam Electric Station,  
Units 1 and 2)

) Docket Nos. 50-445  
) 50-446

CFUR'S RESPONSE TO APPLICANTS' MOTIONS TO (1) COMPEL CFUR TO  
RESPOND TO APPLICANTS' SECOND SET OF INTERROGATORIES AND (2)  
REQUIRE SUPPLEMENTATION OF RESPONSES

Comes now CFUR and files this Response to Applicants' Motions to (1) Compel CFUR to Respond to Applicants' Second Set of Interrogatories and (2) Require Supplementation of Responses which was filed on April 24, 1981, regarding Applicants' Second Set of Interrogatories to CFUR and CFUR's Answers thereto.

I.

By the following discussion CFUR demonstrates that it has fully satisfied its burden in responding to Applicants' Interrogatories and submits that the Applicants' Motions to (1) Compel CFUR to Respond to Applicants' Second Set of Interrogatories and (2) Require Supplementation of Responses (hereinafter Applicants' Motion to Compel) should be in all things denied.

A.

With regard to Interrogatory 1-2, Applicants misunderstand what that Interrogatory asks. They ask about the "meaning" of Contention 1. Such an inquiry has the natural construction of asking what definition the specific words have and their meaning in the syntax of the Contention. As CFUR answered, the words and syntax of Contention 1 have only their natural meaning; there are no tricks. Certainly, Applicants can understand this.

In their Motion to Compel, Applicants adopt the pretension that Interrogatory 1-2 is asking CFUR to give "specification and refinement of the broadly identified issues in Contention 1." This contention by the Applicant is false.

Since CFUR has answered Interrogatory 1-2, Applicants are not entitled to an order compelling an answer.

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B.

In its answers to Interrogatories 2-2, 15-2, 22-2 and 49-2, CFUR has attempted to provide and will provide all "bases" it has upon the completion of discovery from Applicants. Applicants' Motion to Compel on these Interrogatories should be denied.

C.

Interrogatories 11-2 through 14-2 and 32-2 through 34-2 contain inquiries which CFUR can answer only after it obtains sufficient discovery from the Applicants. Since CFUR has to date received only incomplete and evasive discovery from the Applicants on the subjects involved here, along with purely dilatory objections (See Applicants' Answers to CFUR's First Set of Interrogatories and CFUR's Motion to Compel Responsive Answers to CFUR's Interrogatories to Applicants of February 26, 1981), CFUR is unable to answer the above Interrogatories at this time.

Applicant's Motion to Compel should be denied until they have fully and in good faith provided the discovery requested of them.

D.

Applicants' complain of CFUR's answers to Interrogatories 16-2 through 20-2. Initially, Applicants make an essential misrepresentation of CFUR's position contained in Contention 1, both in their Interrogatories and in their Motion to Compel. ~~The~~ Contention 1 plainly states that "Applicants have not demonstrated technical qualifications..." Applicants continually misrepresent that CFUR alleges that Applicants "do not possess" technical qualifications. CFUR does not know the purpose of this misrepresentation, but, because of its frequency, CFUR does not believe it is by accident.

Applicants complain of CFUR's reference to its answers to the Staff Interrogatories. Because the Staff and the Applicants have submitted substantially the same interrogatories, cross-referencing seems only proper.

Applicants also complain that CFUR's response to Interrogatory 16-2 is "nonsensical" because it refers to nonexistent Interrogatory 11-2 of Applicants' First Set of Interrogatories. There is an error in that answer in that it should refer to CFUR's answer to Interrogatory 11-2 of Applicants' Second Set of Interrogatories. CFUR regrets the error. In any event, it appears this error has caused no confusion to the Applicants.

As stated in CFUR's answer to the Staff Interrogatory referenced, CFUR is unable to answer the above Interrogatories until the Applicants fully and in good faith answer CFUR's First Set of Interrogatories to Applicants. To date, the Applicants have not given adequate answers to those Interrogatories (See CFUR's Motion to Compel Responsive Answers to CFUR Interrogatories to Applicants of February 26, 1981). Consequently, Applicants' Motion to Compel should be denied.

E.

With regard to Interrogatories 21-2, 37-2 and 38-2, Applicants again ignore the plain meaning of their Interrogatories in the polemics of their Motion to Compel. Applicants complain that CFUR has given general answers to the above Interrogatories. If the Board will read Interrogatories 21-2 and 37-2, it can see that they are in themselves highly (if not overly) general and call for general answers.

Interrogatory 38-2 is a convoluted inquiry which is also general and unclear in that it fails to identify what the Applicants mean by "requirements." As the Board can see by reviewing Interrogatory 38-2, it breaks down from its own weight when all the inherent ambiguities and generalities are considered.

The Applicants' Motion to Compel should not be granted and the Applicants should be required to submit clear, direct and specific interrogatories.

F.

The Applicants' Interrogatory 27-2 and those Interrogatories based thereon are ambiguous. The ambiguity of these Interrogatories is clearly shown by the incongruity between the wording of the Interrogatories and what the Applicants say they mean in their Motion to Compel. In their Motion to Compel, Applicants claim Interrogatory 27-2 asks whether "the NRC Staff review of Applicants' technical qualifications is somehow inadequate." However, the wording of Interrogatory 27-2 poses the hypothetical and nebulous inquiry of whether the Staff is "unable" to determine the Applicants' qualifications. CFUR is surprised at this misrepresentation.

CFUR can only respond to interrogatories that are reasonably specific and unambiguous. Before Applicants can complain about CFUR's answers, they should first be required to propound clear, direct and specific interrogatories.

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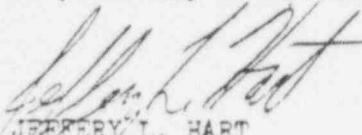
With regard to Interrogatories 40-2 through 99-2, CFUR has insufficient

information and/or insufficient time and resources to proceed with the Interrogatories addressed to Contention 6. Applicants make mention that CFUR is lead party for Contention 6. Since CFUR is unable to proceed with this Contention, it has no objection to Applicants' conducting discovery from other intervenors interested in the Contention.

II.

A proposed Order is attached hereto for the convenience of the Board. Its entry will expedite the discovery process by allowing CFUR to complete its discovery and then to be in a position to supplement its answers to the Applicants' Interrogatories. Its entry will also discourage the making of misrepresentations such as those contained in Applicants' Motion to Compel.

Respectfully submitted,



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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Valentine B. Deale, Chairman

Dr. Richard F. Cole

Dr. Forrest J. Remick

In the Matter of )

TEXAS UTILITIES GENERATING  
COMPANY, et al. )

Docket Nos. 50-445  
50-446

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

May \_\_, 1981

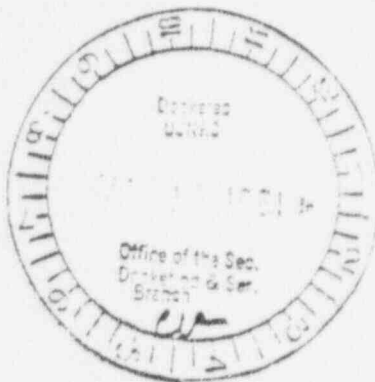
MEMORANDUM AND ORDER

(Denying Applicants' Motions to Compel CFUR to Respond to  
and to Supplement Responses to Applicants' Second Set of  
Interrogatories to CFUR and Requests to Produce)

On this \_\_ day of May, 1981, it is ORDERED that Applicants' Motions to  
(1) Compel CFUR to Respond to Applicants' Second Set of Interrogatories  
and (2) Require Supplementation of Responses is hereby in all things denied.

For the Atomic Safety and  
Licensing Board

\_\_\_\_\_  
Valentine B. Deale  
Chairman



CERTIFICATE OF SERVICE

RELATED CORRESPONDENCE

I hereby certify that copies of "CFUR'S RESPONSE TO APPLICANTS' MOTIONS TO  
(1) COMPEL CFUR TO RESPOND TO APPLICANTS' SECOND SET OF INTERROGATORIES AND  
(2) REQUIRE SUPPLEMENTATION OF RESPONSES" have been served of the following  
by deposit in the United States mail, first class, this 11th day of May, 1981.

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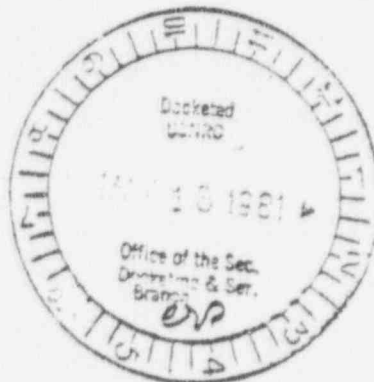
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