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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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USNRC  
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In the Matter of  
TEXAS UTILITIES ELECTRIC COMPANY  
(Comanche Peak Steam Electric  
Station, Unit 2)

Docket No. 50-446-CPA

COPY

MOTION FOR LEAVE TO FILE OUT OF TIME  
AND REQUEST FOR EXTENSION OF TIME TO FILE BRIEF

Petitioners Sandra Long Dow dba Disposable Workers of Comanche Peak Steam Electric Station, and R. Micky Dow, in accordance with 10 C.F.R. sec. 2.714a, and 10 C.F.R. sec. 2.714a(b), are filing simultaneously with this motion, their Notice of Appeal, and do so in an out-of-time manner; and for reason, would show the Commission:

1. Petitioners Did Not Receive Copy Of Order In Time To Appeal.

The petitioners, for reasons irrelevant to these proceedings had occasion, and personal need, to move back to their domicile in the State of Texas, and, although leaving a proper change of address with the U.S. Postal Service, for transfer of their mail, the Memorandum and Order, the subject of the appeal, and this motion, did not reach them until well after the ten day period for the filing of a Notice of Appeal had lapsed.

Petitioners would offer, in support of the above and foregoing that the reason for this delay is due to new procedures of the U.S. Postal Service with regard to mail forwarding. The procedure, used in the Pittsburgh area, and others as well, is for the U.S. Postal

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Service to send all mail for forwarding, along with the forwarding request, to one central facility, wherein they computer process a series of yellow forwarding labels with the new address, and then, upon completion of this task, the mail is forwarded. There is a 7-10 day delay in receiving mail while this process is being completed. It was this administrative function, alone, which prevented the petitioners from receiving the order in time to file a notice of appeal with the Commission.

## 2. Petitioners Made Procedural Error In Requesting Review.

Upon receipt of the memorandum and order, and upon discovering that the ten day period had long-lapsed, petitioners felt their only remaining course of action was to make direct approach to the U. S. Court of Appeals for the District of Columbia Circuit, and seek review of the order; and did, then, file an immediate Request for Review with that court and serve all parties to this action in a timely and normal fashion.

It was only in the course of conversation to discuss other, yet relevant matters, with Charles Mullins of the Office of the General Counsel, yesterday; that petitioners became aware of their procedural error, and stipulated to Mr. Mullins that they would take immediate steps to cure same.

## 3. Inadvertance Of Petitioners Due To Inexperience And Not Meant As A Tactic Or Attempt At Delay.

The Commission is respectfully reminded that petitioners are not attorneys. They have responded in a timely fashion, in all matters, unfortunately, due to their inexperience, their response was the wrong one, and was premature.

It is important to note, however, that, immediately, upon the discovery of their inadvertance, petitioners took the proper and correct steps to cure the error. When discovering that Charles Mullins would have to do the extra work of pleading for dismissal before the U.S. Court of Appeals for the District of Columbia Circuit, for failure to exhaust immediate remedy, these petitioners, of their own accord, volunteered to nonsuit the matter there, in order to save all parties unnecessary pleading. If the petitioners were interested in any manner of delay, or, as the utility maintains, harassment and spurious pleadings; petitioners, certainly would not have made this effort.

4. Request For Extension Of Time To File Brief Not Unreasonable.

Petitioners' second portion of this motion, their request for an extension of time is not unreasonable, in view of the above and foregoing; as petitioners were preparing for matters to proceed in the normal scheduling of the U.S. Court of Appeals for the District of Columbia Circuit, and had, therefore, not prepared a brief in support, anticipating a show-cause order to issue.

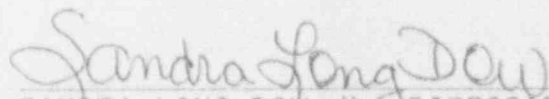
The scheduling of this matter has been tightened considerably and is causing some timing problems with regard to the other parties herein, as well, as is evidenced by the request of B. Irene and D.I. Orr for an extension of time, as well. It is important to also note, at this time, that the order granting that extension to the Orrs was only received by these petitioners yesterday. It follows then, that if the Orrs were granted a reasonable extension of time in which to prepare and serve their brief, that petitioners

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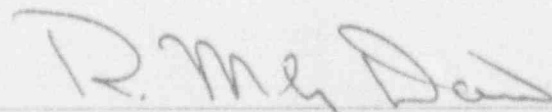
are also entitled to an extension of time in which to prepare and serve their brief. It also follows that if the Orrs were not able to file and serve their brief in the time allotted, and the petitioners have not had access to that time span either, that they would require a sufficient enough amount of time in which to prepare, file, and serve their brief. Petitioners would, therefore, request, that they be granted a 15 day extension of time, from the date of the filing of this motion, in which to prepare, file, and serve their brief in support of their appeal to the Commission.

WHEREFORE, PREMISES CONSIDERED, petitioners request that they be allowed to file their Notice of Appeal in an out-of-time manner, and that they be granted 15 days from the date of the filing of this motion, in which to prepare, file and serve their brief.

Respectfully submitted,



SANDRA LONG DOW dba DISPOSABLE  
WORKERS OF COMANCHE PEAK STEAM  
ELECTRIC STATION, pro se  
Number 368, P.O. Box 19400  
Austin, Texas 78760-9400  
512-280-5833  
Petitioner

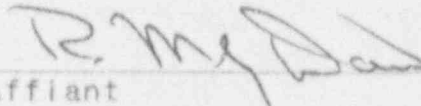


R. MICKY DOW, pro se  
Number 368, P.O. Box 19400  
Austin, Texas 78760-9400  
512-280-5833  
Petitioner

CERTIFICATE OF SERVICE

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This is to certify that a true and correct copy of the foregoing was sent to the parties listed below, by regular first class mail, on this the 7 th day of January, 1993.

  
Affiant

Janice Moore, Esquire  
Office of General Counsel  
U.S. Nuclear Regulatory Comm.  
11555 Rock Pike  
Rockville, Maryland 20852

Charles E. Mullins, Esquire  
Office of General Counsel  
U.S. Nuclear Regulatory Comm.  
11555 Rock Pike  
Rockville, Maryland 20852

George L. Edgar, Esquire  
Newman & Holtzinger, P.C.  
1615 L Street, N.W.  
Washington, D.C. 20036

Mike Kohn  
Kohn, Kohn & Calapinto  
517 Florida Avenue, N.W.  
Washington, D.C. 20002

Secretary  
U.S. Nuclear Regulatory Commission  
11555 Rock Pike  
Rockville, Maryland 20852