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RELATED CORRESPONDENCE

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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USNRC

'85 JUL 24 A10:55

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of	)	
	)	Docket Nos. 50-445-2
TEXAS UTILITIES GENERATING	)	and 50-446-2
COMPANY, et al.	)	
	)	
(Comanche Peak Steam Electric	)	
Station, Units 1 and 2)	)	

CASE MOTION TO COMPEL RESPONSE TO INTERROGATORIES  
AND DOCUMENT PRODUCTION REQUEST RELATED TO MAC REPORT

Pursuant to 10 CFR § 2.740(f) CASE moves this Board to issue an order compelling Applicants to fully and truthfully answer every interrogatory and every request for production of documents encompassed by its discovery filing of June 24, 1985. <sup>1</sup>

Applicants, in a continued campaign to take an existential view of this licensing proceeding essentially contend that the existing CPRT "nihirates" the past and the only relevant inquiries are related to Applicants present and future conduct. Jean Paul Sarte would find comfort in the reasoning <sup>2</sup> but no one familiar with the issues in this licensing proceeding could. We

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1. By letter dated June 24, 1985 to R. Woolridge from A. Roisman, CASE adopted the June 24, 1985 MAC Report discovery request filed in Docket 1 as a discovery request in Docket 2. This Motion to Compel is filed in Docket 2.

2. See Being and Nothingness

find more relevant the philosophy of William Shakespeare who wrote "what is past, is prologue", <sup>3</sup> as the touchstone for the analysis here.

We have already argued in our response on the issue of mootness what are the relevant remaining issues in Docket 2. Among these issues are whether the conduct of Comanche Peak managers in the past was such that they ignored and/or covered up serious problems which would, if addressed properly, substantially delay completion of construction of the plant. If so, there is a generic failure of the QA/QC program which requires a 100% reinspection. The MAC Report was one of the earliest warnings to Applicant that its entire approach to building Comanche Peak was erroneous. See also CASE Motion for an Evidentiary Standard for a further discussion of other early warnings ignored by the Applicant. How Applicants responded or did not respond to these warnings is obviously relevant to test the CASE thesis of deliberate management disregard of safety problems. See Board Order, May 24, 1985. Similarly any investigation of the prudence of Applicants' conduct in constructing Comanche Peak would be reasonably calculated to disclose information regarding management attitude and conduct that would also bear on the existence of a system-wide failure of management to allow, much less encourage, Comanche Peak to be

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3. The Tempest, Act II, Scene i, Line 253.

built properly.

A second issue in this case is the character of Applicants' management. That character is directly measurable in part by how today's management deals with yesterday's mistakes. A full inquiry, beyond the bounds of counsel's representations, into how the existence of the MAC Report was first suppressed and later disclosed and the details of today's management's response to the situation is an essential part of getting at the truth. In fact, we would have assumed that Applicants would be anxious to have the full story come out in order to demonstrate that current management has the proper direction. How else can Applicant prove their Affirmative case on this point? <sup>4</sup>

Applicants' assertion that new contentions need to be filed

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4. Because actions do speak louder than words Applicants' current management will have to be judged by what it does and not what it says it will do. One of these tests that, like the reaction to the MAC Report cover-up, is a substantial indicator of Applicants' true character (character is always best judged where hard decisions have to be made) is the current management action regarding whistleblowers whose allegations were ignored by past management and whose insistence on pursuing those allegations resulted in their discharge or constructive discharge. Now that the TRT has found that many of these allegations were valid and now that it is apparent that if the concerns had been addressed when they were raised, less time and money would have been lost (the prudence audit will further enlighten us on this) what will current management do? Will they seek to bring these brave workers back to Comanche Peak, compensate them for their losses and reward them for their efforts or will they continue to pursue the old management policy of "seek and destroy"? Needless to say, CASE intends to pursue this matter further in the ongoing proceedings.

and ruled upon before discovery can be filed on the MAC Report ignores the fact that the issues to which the MAC Report and the prudence audit relate -- how and why did the QA/QC fail, how and why did the construction program result in so many defects and what is the character and competence of present management particularly as judged by their evaluation of and response to the mistakes and misconduct of past management? -- are already in this hearing. In addition, Applicants in their letters and communications regarding the MAC Report purport to allay any concern that there is an ongoing problem. They in effect concede the MAC Report issues are relevant here, else why tell the Board about it and why try through a letter prepared by counsel to lay the issue to rest. Surely CASE is entitled to go behind the letter to the underlying facts. The present discovery seeks just that.

While Applicants assert that the MAC Report concerns are completely encompassed by the CPRT, this assertion is totally in error. The MAC Report identified system-wide problems which, if they existed, would have destroyed the credibility of the entire construction effort. Only a 100% reinspection could determine how much of the construction is flawed and requires rework.

Applicants point to document control as a MAC Report problem which the CPRT fully addresses. However the MAC Report identified a generic failure which if not corrected could infect

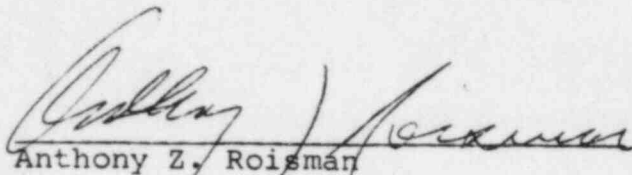
all of construction. The TRT and SSER's confirm that the MAC Report warnings were well-founded. In SSER 11 the staff concludes:

However, prior to 1984, as identified by CAT and TUEC, there was a document control breakdown. Although many of the document control deficiencies have been corrected, the implication of past inadequacies on construction and inspection have potential generic significance which has not yet been fully analyzed by TUEC. (p. O-10)

The CPRT takes a far narrower view of the problem, preferring instead to focus on individual deficiencies found and ignoring the finding of generic implications. See e.g. CPRT I SAPS VII a.2 and a.3. In short the CPRT "concession" is at most to agree to the specific deficiency but to reject either the safety significance of the finding or any generic implication at least until confirmed by the CPRT. Surely the MAC Report prediction of the generic breakdown is relevant evidence in deciding whether the CPRT, with its less than 100% reinspection, is adequate.

If this Board grants this Motion to Compel we request that Applicants be given no more than 10 calendar days from the date of the order to provide the full response sought. They will have already had ample time to respond and should not benefit by their stonewalling tactics.

Respectfully Submitted,



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RELATED CORRESPONDENCE

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UNITED STATES OF AMERICA  
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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of CASE's CASE Motion To Compel Response To Interrogatories And Document Production Request Related To MAC Report have been sent to the names listed below this 18th day of July, 1985, by: Express mail where indicated by \*; Hand-delivery where indicated by \*\*; and First Class Mail unless otherwise indicated.

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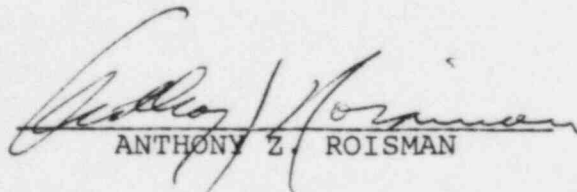
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