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July 22, 1985

Mr. Anthony Z. Roisman
Trial Lawyers for Public Justice
2000 P Street, N.W.
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50-445/446-01-2
DOCKET NUMBER
PROD & UTIL. FAC.

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

Dear Tony:

This responds to your letter dated July 3, 1985, which advised Applicants that as of that date you deemed the informal discovery requests you transmitted on May 28, 1985, "to be a formal request for discovery subject to the limitations and responsibilities of the NRC's Rules of Practice."

Applicants generally object to responding to your requests. Events which have occurred since your May 28 transmittal, events not acknowledged in your July 3 letter, supersede those requests. Whether such discovery is considered formal or informal, in Docket-1 or Docket-2, it would be an unfair burden for Applicants to respond given the present posture of the case. In addition, Applicants provided substantial information and documents, both in response to authorized discovery requests and with pleadings filed in both dockets, which are responsive to many of your requests. Consequently, responses to your requests are unwarranted at this time.

On June 28, 1985, Applicants filed their Management Plan, proposing a process for future litigation of unresolved issues. Your July 3 letter did not acknowledge that Applicants filed that Plan. If Applicants' Plan is adopted, litigation of many heretofore open issues, including allegations of harassment and intimidation, will no longer be necessary to reach the ultimate

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determination to be made in this proceeding. Applicants believe it would be premature and an unnecessary expenditure of resources to respond now to requests that concern matters that may not remain for litigation.¹

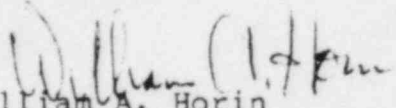
Further, Applicants recently produced substantial information relevant to your requests. This information includes the Management Plan itself (which discussed Applicants' plan for the conduct of discovery regarding the CPRT), Amendment 55 to the FSAR (transmitted with the Plan) and the CPRT Program Plan and issue-specific action plans. In addition, many of your requests seek information which has been the subject of CASE discovery in Docket-1. Applicants responded to those requests in their reply to ripe ²discovery requests, filed simultaneously with your July 3 letter.

1/ The Board has acknowledged that developments in the case may render unnecessary responses to discovery requests directed at existing issues. (Memorandum (Clarification of LBP 85-16), May 30, 1985.) The Board indicated that in determining whether to respond to particular requests a practical test should be applied, balancing the burden on Applicants of responding now against the potential delay should such discovery be pursued at a later time. The risk of delay is, of course, also borne by Applicants. Applicants assessed those risks in reaching their conclusions regarding your present requests.

2/ Compare, e.g., your requests 1, 12, 14 and 15 with Applicants' Second Partial Response to Ripe Discovery Requests, July 3, 1985, responses to Question 3 (CASE's Second Set), Questions 35 and 36 (CASE's Fourth Set) and Questions 36 and 38 (CASE's Fifth Set). With this letter I am transmitting materials related to your instant requests already provided in Docket-1 which you may not have received. Relevant material yet to be provided in Docket-1 in response to CASE's requests will also be forwarded to you.

In sum, responding now to your requests would be an inefficient use of resources in the present posture of the case. Nonetheless, Applicants will provide material produced in Docket-1 that is also relevant to your requests.

Sincerely,


William A. Horin
Counsel for Applicants

Enclosures

cc: Service List w/o encl.

3/ Applicants reserve the right to object to your requests individually should we be required at a later time to respond.