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September 23, 1985

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

Dear Administrative Judges:


On September 16, 1985, the NRC Staff filed a "response" to a letter from CASE, dated August 26, 1985. That letter concerned Board Notification 85-077, "Staff's Determination of Applicants Potential Material False Statement on U-Bolt Sample." The Staff found therein that there had been no material false statement within the meaning of Section 186 of the Atomic Energy Act, as amended (see July 19, 1985, Memorandum for Vince Noonan, Director, Comanche Peak Task Force from James M. Taylor, Director, Office of Inspection and Enforcement). In its letter, CASE "requested" that the Board hold hearings on that matter or, in the alternative, rule "now" that the subject statement "does constitute a material false statement." The Staff opposed CASE's requests.

This will inform the Board that Applicants do not intend to respond formally to CASE's request. Requests for Board action of this magnitude and questionable jurisdiction should, at a minimum, conform to the Rules of Practice concerning inter alia, motions, as set forth in 10 C.F.R. Section 2.730 (see Duke Power Company (Cherokee Nuclear Station, Units 1, 2 and 3), ALAB-457, 7 NRC 70, 71 (1978)). CASE's letter does not satisfy those requirements. Accordingly, we do not believe that a response or Board decision on the informal request is necessary or appropriate.

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Applicants' position regarding the status of the U-bolt torque sample matter is set forth in "Applicants' Motion for Clarification and/or Reconsideration of August 16, 1985 Memorandum and Order (Current Status of Discovery)," filed August 28, 1985. Consistent with the discussion therein, at 7-11, any disposition of this matter, prior to consideration of material requested of Applicants by the Board, would amount to a denial of Applicants' outstanding motion for reconsideration. Applicants agree with the Staff that immediate hearings on this issue would not be appropriate in any event.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert A. Wooldridge", with a long horizontal flourish extending to the right.

Robert A. Wooldridge
Counsel for Applicants

RAW/klw

cc: Service List