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October 14, 1985

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Ms. Billie Pirner Garde  
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Dear Billie:

I do not agree with the comments and conclusions in your letter of October 2, 1985. On October 9, 1985, we filed our Response to CASE's 9/4/85 Request for Production of Documents. As you know, we have a number of objections to your proposed requests. These objections have not been ruled upon by the Licensing Board. Although it is abundantly clear that there exists a substantial difference of opinion on these matters, these particular objections have not yet been discussed informally between us.

My position, as stated to you in my previous letter of September 17, 1985, as well as in the telephone conversation, was not, as you stated, that we refuse to make witnesses available, but rather that such process should not take place unless and until there has been a determination by the Board as to whether or not your requested discovery is within the scope of and is relevant to Docket 2. As you know, the Federal Register notice establishing Docket 2 designated a second licensing board "to preside over . . . all allegations of intimidation and harassment." 49 Fed. Reg. 13613 (April 5, 1984). Moreover, discovery requests, including requests for depositions, "may relate only to these matters in controversy which have been identified by the (Licensing Board following a special) prehearing conference." 10 C.F.R. 2.740(b)(1). Pennsylvania Power and Light Company (Susquehanna Station, Units 1 and 2), ALAB-613, 12 NRC 317, 322 (1980). Thus, our objections to the proposed depositions go directly to CASE's right to pursue intended subject matters of such depositions in Docket 2.

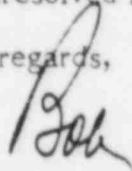
I have noted the comment several times over the last year or so that this is not a "jousting match" and I cannot voluntarily agree to a course of action which seems to me to be inefficient at best and most probably unnecessary. It is not reasonable to ask for depositions of the Chief Executive Officer of Texas Utilities Company and the President of TUGCO on a piecemeal basis when both of us know

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that substantial questions exist, none of which are frivolous, concerning your right to such discovery. "Frankly, your position appears to us to violate the spirit if not the letter of the Chairman's Order instructing us to cooperate on these matters in an effort to utilize this time period."<sup>1</sup>

Since we seem to be at an impasse, I suggest that you pursue your request for depositions formally, in what hopefully will be in a more focused request, since you now have our written objections. We will respond formally and probably seek a prehearing conference for oral argument on unresolved issues.

Best regards,



Robert A. Wooldridge

RAW/klw

cc: Service List