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CASE

(CITIZENS ASSN. FOR SOUND ENERGY)

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Dallas, Texas 75224

214/946-9446

RELATED CORRESPONDENCE

August 7, 1985 (late night)

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Washington, D. C. 20555

DOCKETED
USNRC

'85 AUG 12 AIO:11

Dear Bob and Geary:

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Subject: In the Matter of
Texas Utilities Electric Company, et al.
Request for an Operating License for
Comanche Peak Steam Electric Station,
Units 1 and 2
Docket Nos. 50-445 and 50-4460L

Interrogatory 5 of CASE's 6/24/85
Interrogatories to Applicants and
Requests to Produce re: the MAC Report
and Issues Raised by the MAC Report

In the Licensing Board's 7/22/85 Memorandum and Order (Motions Related to the MAC Report), the Board struck CASE's Interrogatory 5, in its entirety, but stated:

"However, the parties are encouraged to discuss whether CASE has legitimate needs for some class of information that CASE can define in a more precise manner. If CASE has such needs and cannot obtain agreement to those needs, it may file more precise interrogatories on this subject within fifteen days from the date of issuance of this order."

As discussed with you, Bob (the substance of which conversation was relayed by me to Judge Bloch) yesterday /1/, after working on our supplemental interrogatories to be filed regarding this, it appeared that a better approach would be to send some of our thoughts on this to you in writing so that you would have something in hand for us to discuss. I also (with no objection from you) sought leave for a day or two more time to complete the attached.

Generally, the type of information sought might be more specifically stated (than we stated it in our 6/24/85 Interrogatories to Applicants and Requests to Produce re: the MAC Report and Issues Raised by the MAC Report) as:

/1/ Geary, when I tried to contact both you and Stuart Treby yesterday, no one (including the secretaries) answered.

1. Your response to the following should address not just specific individual noncompliances, etc., but the kind of overall assessments performed in the MAC Report, the Ebasco Report, the Lobbin Report, and the Southern Engineering Audits/Project Monitoring and Evaluation Reports performed for the minor owners of Comanche Peak. Your response should also include not just specific structures, systems, and components, but also broader type issues (for example, the seismic response spectra).
 - (a) Have any other (besides the MAC Report) management reviews/audits/ reports (by whatever name) been performed regarding Comanche Peak relative to the following:
 - (1) management competence, character, willingness, responsiveness, etc.?
 - (2) management's compliance with NRC regulations and/or industry codes and standards and/or FSAR commitments?
 - (3) management's identification of, recognition of, and response to deficiencies, discrepancies, noncompliances, potential trends or patterns of non-conforming conditions or other problems, regarding construction and/or design, etc.?
 - (4) adequacy of management of the design and construction process?
 - (5) an overall view of the adequacy of the plant?
 - (6) an overall assessment of the possible licensability of the plant?
 - (b) Have any other (besides the MAC Report) reviews/audits/ reports (by whatever name) been performed regarding QA/QC at Comanche Peak relative to the following:
 - (1) competence, character, willingness, responsiveness, etc. of Applicants' employees etc.?
 - (2) compliance with NRC regulations and/or industry codes and standards and/or FSAR commitments?
 - (3) identification of, recognition of, and response to deficiencies, discrepancies, noncompliances, potential trends or patterns of non-conforming conditions or other problems, regarding construction and/or design, etc.?

- (4) adequacy of the design and construction process?
 - (5) an overall view of the adequacy of the plant?
 - (6) an overall assessment of the possible licensability of the plant?
- (c) Have any other (besides the MAC Report and/or the Southern Engineering Audits/Project Monitoring and Evaluation Reports performed for the minor owners of Comanche Peak) engineering reviews/audits/reports (by whatever name) been performed regarding Comanche Peak relative to the following:
- (1) competence, character, willingness, responsiveness, etc. of Applicants' employees etc.?
 - (2) compliance with NRC regulations and/or industry codes and standards and/or FSAR commitments?
 - (3) identification of, recognition of, and response to deficiencies, discrepancies, noncompliances, potential trends or patterns of non-conforming conditions or other problems, regarding construction and/or design, etc.?
 - (4) adequacy of the design and construction process?
 - (5) an overall view of the adequacy of the plant?
 - (6) an overall assessment of the possible licensability of the plant?
- (d) Provide copies of any and all such documents referenced in your answers to (a), (b), and (c) above. If such reports have already been supplied, please so indicate.
- (e) Provide a list of all consultants which have been hired to perform work regarding the above-referenced reviews, audits, or reports, along with a summary of what they were asked to do, how much they were paid, and all other pertinent details.

Provide copies of any and all contracts, letters of understanding, letters of intent, purchase orders, statement of protocol, statement of scope, any and all other related or similar documents, and all other pertinent information regarding each consultant listed. (If information regarding any of these consultants has already been provided, please so indicate.)

Some examples of the type of information we seek are the following (as described by Applicants themselves):

"The Final Report for the 'Review of the Quality Assurance Program for the Design and Construction of the Comanche Peak Steam Electric Station' was prepared by Fred Lobbin to provide an independent assessment of the QA program and, in particular, to identify areas which could be improved and which should receive management attention." (Applicants' 4/20/82 Answers to CASE's Ninth Set of Interrogatories, page 4)

"The 'Report of Independent Review and Analysis of QA Records Management Systems for Texas Utilities Services Incorporated,' by Ebasco Services Inc., was performed to review, evaluate, and report on the effectiveness of the TUGCO QA records management system." (Applicants' 4/20/82 Answers to CASE's Ninth Set of Interrogatories, page 4)

"[A] report prepared in May of 1978 by Management Analysis Company (MAC) following a management review and audit of the quality assurance program of the Comanche Peak Project." (Applicants' 5/29/85 letter to the Board, to which the MAC Report was attached; was identified by Applicants as being covered under, and was supplied to CASE under, question 10 of our 7/7/80 First Set of Interrogatories to Applicants, as clarified on 8/4/80)

In reviewing our past discovery requests, we believe that some of the information sought may be discoverable under previous discovery requests; we are attaching CASE's 8/7/85 Request for Supplementation of Applicants' Answers to Previous CASE's Discovery Requests to Applicants, which includes some requests which we believe might come under this category. (It should be noted that not all of our requests for supplementation necessarily fit into this category; we are requesting supplementation of other items in addition to those.)

We especially want to call your attention to the following item which is included in our Request for Supplementation (pages 4 and 5), which fits into the category of the type of documents CASE sought under Question 5 of our 6/24/85 Interrogatories to Applicants and Requests to Produce re: the MAC Report and Issues Raised by the MAC Report:

CASE's 2/10/82 Seventh Set of Interrogatories to Applicants and Requests to Produce, page 7:

Questions 10 and 11

Please note that Questions 10 and 11 stated:

"10. Have any audits been performed by or for any of the minor (other than Texas Utilities companies) owners of CPSES?

"11. If so, provide for inspection and copying all such audits."

As stated in our attached Request, Applicants' responses to Questions 10 and 11 should specifically include (but not be limited to) the following:

any and all audits which have been performed by or for the minor owners by Southern Engineering Company of Atlanta, Georgia; these audits should specifically include (but not be limited to) any and all Project Monitoring and Evaluation Reports.

Further, if the title for this type of audit report by or for the minor owners is changed (i.e., not specifically called an audit but containing generally the same kind of information), your answers should be supplemented and the documents requested provided (regardless of what name they are called by).

See also CASE's 3/1/82 Eighth Set of Interrogatories to Applicants and Requests to Produce, questions 23, 24, 25, which state:

"23. Is there an audit, study or assessment (by whatever name) underway at this time about the work at CPSES by or for any of the minor (other than Texas Utilities companies) owners of CPSES, or is such an audit, study or assessment anticipated in the immediate future?

"24. If the answer to 23 above is yes, please give specifics regarding such audit, study, or assessment, the terminology by which such audit, study, or assessment will be referred, and when it is anticipated that it will be completed.

"25. If the answer to 23 above is yes, please provide such audit, study or assessment for inspection and copying as soon as it is available."

Further, CASE's 12/1/80 Second Set, questions 11, 12, and 13 state:

"11. Is it correct that the only outside or sub-contractor evaluations, studies or audits which have been conducted at CPSES (by sub-contractors or agents of sub-contractors or by consulting firms or others, etc.) was

the Muenow Report regarding problems with the concrete 'honeycombing' (approximately 200 pages or so) under a cover letter dated 5/5/80?

"12. If the answer to Question 11 is no, list the other evaluations, studies or audits which have been done (we are not asking for copies to be provided for inspection and copying in this question; we want to know which other audits have been performed).

"13. If the answer to Question 11 is no, provide for inspection and copying all other such audits."

In addition, CASE's 3/1/82 Eighth Set, Question 16, requested:

"16. Please supplement your answers to the following questions, originally asked in CASE's 12/1/80 Second Set of Interrogatories to Applicants and Requests to Produce:

"21. Do you intend to call any witness in the upcoming hearing with regard to Contention 5?

"22. If the answer to Question 21 above is yes, supply the following information regarding each such witness:

"a. Name, address, and telephone number of the witness.

"b. Company affiliation and title.

"c. A summary of the witness's professional and educational background.

"d. Any other information bearing on the witness's specific qualifications to testify with respect to Contention 5.

"e. The nature of the witness's testimony and a brief summary of such testimony.

"f. List or identify any and all documents which that witness intends to rely on in giving their testimony.

"g. State whether or not such witness has conducted any research or made any studies on which such witness will rely.

- "h. If the answer to g. above is yes, state briefly the scope and nature of such research or study.
- "i. Provide copies of the witness's testimony.
- "j. Provide for inspection and copying any documents on which the witness relied in such testimony."

And CASE's 4/5/82 Ninth Set, questions 10, 11, 12, 13 and 14 state:

- "10. Have there been any studies, analyses, assessments, etc. done about the workmanship at CPSES, the QA/QC program at CPSES, or the performance of Brown and Root or Applicants at CPSES, other than those provided in response to previous interrogatories and requests to produce?
- "11. If the answer to 10. above is yes, for each such study, analysis, assessment, etc., provide the following information:
 - "(a) What was the purpose of the study, analysis, assessment, etc.?
 - "(b) What were the conclusions of the study, analysis, assessment, etc.?
 - "(c) Who instituted the study, analysis, assessment, etc.?
 - "(d) Will Applicants rely on such study, analysis, assessment, etc. in preparation or presentation of their case in the hearings?
 - "(e) What is the title of the document?
 - "(f) Who is the author of the document?
 - "(g) Provide for inspection and copying all studies, analyses, assessments, etc., referenced in 10. above.

"13. Have Applicants caused to be prepared any documents with respect to Contention 5, other than those already identified in response to other interrogatories and requests to produce?

"14. If the answer to 13. preceding is yes, please supply the following information regarding each such document:

"(a) What is the title of the document?

"(b) Who is the author of the document?

"(c) What was the purpose of the document?

"(d) What were the conclusions of the document?

"(e) Who instituted preparation of the document?

"(f) Will Applicants rely on such document in preparation or presentation of their case in the hearings?"

Bob, we believe that very clearly these Southern Engineering documents should have already been supplied to CASE under our previous discovery requests (as cited above). It is very disturbing to us that we seem to continue to have a problem with Applicants not providing us with documents which are clearly within former discovery requests which clearly should be supplemented.

And we again call your attention to the Board's Order Subsequent to Prehearing Conference of December 1, 1981, filed December 18, 1981, which states, in part:

"The Board also directs the parties to provide each other with basic information to aid in discovery (Tr. 259). This includes such information as identification of significant documents in their possession and of knowledgeable witnesses." (Emphases added.)

And, as you are aware, the Board in recent months has also encouraged cooperative informal discovery.

We have made it very clear that we are interested in audits, studies, assessments, analyses, etc., both specific and of a broader nature which encompasses the type of information required in 10 CFR Part 50, Appendix B, Criterion XVII, Quality Assurance Records ("Sufficient records . . . to furnish evidence of activities affecting quality. . . includ[ing] at least the following: . . . the results of reviews, inspections, tests, audits, monitoring of work performance, and materials analyses . . . [and] closely-related data . . . ") -- i.e., any kind of such documents which have potential relevance to CASE's Contention 5 (and which are therefore properly discoverable). In the past, we have on occasion clarified just what we wanted and Applicants seemed to know the kind of documents we seek (for instance, Applicants themselves identified, albeit untimely, that the MAC Report was one such document). For just a few examples, see the following previously-asked interrogatories (most of which are included in the attached Request for Supplementation):

CASE's 7/7/80 First Set: Questions 8, 9, 10, 11

CASE's 12/1/80 Second Set: Questions 7, 8, 9, 11, 12, 13

CASE's 1/4/82 Sixth Set: Questions 2(j) through (m)

CASE's 2/10/82 Seventh Set: Questions 10 and 11

CASE's 3/1/82 Eighth Set: Questions 5, 10, 11, 12, 20, 21, 22,
23, 24, 25

CASE's 4/5/82 Ninth Set: Questions 9 (referring back to CASE's First Set, Questions 9, 10, and 11), 10, 11, 12, 13, 14

CASE's 4/20/82 Tenth Set: Questions 8 and 9

CASE's 3/14/84 Nineteenth Set: Pages 4 through 8 specifically requested that Applicants supplement their responses to the following previously-filed interrogatories, and asked that supplementation be made on a continuing basis thereafter:

CASE's 7/7/80 First Set: Question 8

CASE's 12/1/80 Second Set: Questions 7, 8, 9, 11, 12, 13

CASE's 1/4/82 Sixth Set: Questions 2(a) through (m), 4,
5, 6, and 7

CASE's 2/10/82 Seventh Set: Questions 8, 10 and 11

CASE's 3/15/84 Twentieth Set: Pages 3 through 6 specifically requested that Applicants supplement their responses to the following previously-filed interrogatories, and asked that supplementation be made on a continuing basis thereafter:

CASE's 3/1/82 Eight Set: Questions 5, 9, 11, 12, 16, 18

Further, because of this continuing problem of Applicants not providing us with documents for which we have already asked, it appears more and more that Applicants are not in compliance with NRC Regulations. This was another aspect with which we were concerned in regard to Question 5 of our 6/24/85 Interrogatories.

We specifically call your attention to 10 CFR Part 50, Appendix B, Criterion XVII, Quality Assurance Records, which states, in part:

"Sufficient records shall be maintained to furnish evidence of activities affecting quality. The records shall include at least the following: Operating logs and the results of reviews, inspections, tests, audits, monitoring of work performance, and materials analyses. The records shall also include closely-related data such as qualifications of personnel, procedures, and equipment. Inspection and test records shall, as a minimum, identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. Records shall be identifiable and retrievable. Consistent with applicable regulatory requirements, the applicant shall establish requirements concerning record retention, such as duration, location, and assigned responsibility." (Emphases added.)

. . . as well as 10 CFR Part 50, Appendix B, Criterion XVIII, Audits, which states, in part:

"A comprehensive system of planned and periodic audits shall be carried out to verify compliance with all aspects of the quality assurance program and to determine the effectiveness of the program . . . Audit results shall be documented and reviewed by management having responsibility in the area audited. Followup action, including reaudit of deficient areas, shall be taken where indicated." (Emphases added.)

Our attached Request for Supplementation also contains the following item:

CASE's 3/1/82 Eighth Set of Interrogatories to Applicants and Requests to Produce:

Questions 19(b) and 19(d)

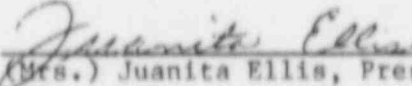
Please note that Applicants stated in their 4/1/82 Applicants' (1) Responses to Requests to Produce, (2) Supplementation of Answers to CASE's Eighth Set of Interrogatories and Requests to Produce, and (3) Motion for Protective Order (page 5, regarding questions 19(b) and 19(d)):

"In addition, to assist CASE in understanding our response, Applicants will provide for inspection and copying a sampling of various management reports. Also, Applicants invite CASE to meet with Comanche Peak project management to discuss how the project is managed and to respond to any questions CASE might have. Applicants believe that this would provide an opportunity for CASE better to understand management activities as they relate to Contention 5."

We would hope that Applicants will adopt this attitude of openness and responsiveness, rather than fighting discovery as was done regarding the MAC Report.

CASE believes that the preceding will give us a more adequate basis for discussion. Please let me know when you have completed reviewing it so that we can comply with the Board's suggestion in its 7/22/85 Memorandum and Order (Motions Related to the MAC Report).

Respectfully submitted,



(Mrs.) Juanita Ellis, President
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cc: Service List