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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

TEXAS UTILITIES ELECTRIC  
COMPANY, et al.

(Comanche Peak Steam Electric  
Station, Units 1 and 2)

Docket Nos. 50-4450L  
and 50-446

(Application for an  
Operating License)

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CASE'S PROPOSAL REGARDING DESIGN/DESIGN QA ISSUES  
IN RESPONSE TO APPLICANTS' 6/28/85 CURRENT MANAGEMENT VIEWS  
AND MANAGEMENT PLAN FOR RESOLUTION OF ALL ISSUES

On 7/29/85, CASE filed its Initial Response to Applicants' 6/28/85 Current Management Views and Management Plan for Resolution of All Issues, which we incorporate herein by reference. As stated at that time, CASE is very conscious of the Board's previous admonitions that parties have a responsibility to present an orderly case to the Board /1/. CASE is still in the process of preparing a coherent, comprehensive proposal of how we believe the rest of the case should be handled. We are still unable (as we were then), primarily because of the uncertainties associated with receipt of discovery responses, to set forth a proposed schedule for the remainder

/1/ It should be noted that Applicants have not followed the Board's orders in this regard. They have instead presented a Plan to the Board in bits and pieces, which is still incomplete and lacks sufficient specificity to enable a reviewer to thoroughly critique it. This is not helpful to the Board. Further, it is grossly unfair to CASE and puts CASE at a tremendous disadvantage and severely damages our due process rights in these proceedings. In addition, new information which CASE received just yesterday and is still reviewing clearly indicates that Applicants have been planning this for many months, far in advance of what has been indicated before. We will be addressing this in more detail in a later pleading.

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of the hearings. However, any proposed schedule should be keyed to the timing and adequacy of responses to discovery requests; only in this way will it be possible for the Board to fulfill its promise to CASE that Applicants' delays will not prejudice CASE.

CASE still intends to file a more detailed proposal soon; however, we suggest the following general method of initially addressing the design/design QA issues:

1. The Board should honor the agreement made between the Board and all parties (as memorialized in the Board's 6/29/84 Memorandum and Order (Written-Filing Decisions, #1: Some AWS/ASME Issues)).
2. The Board should invite the Applicants to respond to CASE's Answers to Applicants' seventeen various Motions for Summary Disposition by a date certain, which CASE suggests should be September 4, 1985 /2/.
3. The Board should also invite the NRC Staff to respond to CASE's responses to Applicants' Motions for Summary Disposition. Since the Staff has not yet responded (with one exception, to our recollection) to any of Applicants' Motions or CASE's responses, it might be appropriate for the Board to allow the Staff additional time, which CASE suggests should be by September 16, 1985.

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/2/ CASE considers this amount of time to be very generous, in light of the many months which have already passed without Applicants responding. Further, additional time should not be necessary since Applicants apparently have already been working on this; they have stated that they are "currently committed to provide the Board with corrections to all affidavits." See Applicants' 7/5/85 First Partial Response to Ripe Discovery Requests, page 5, Footnote 2.

4. Since Applicants are now apparently attempting to phase out Cygna's independent protocol-controlled effort with the CPRT Plan which is governed by no such restrictions (and therefore qualifies only as yet another Applicant-dependent effort), CASE suggests that the Board request that Cygna Energy Services also respond to the Applicants' Motions for Summary Disposition and CASE's responses to them. CASE suggests that the same time be allowed Cygna as is allowed the NRC Staff, until September 16, 1985.
5. The Board should invite Applicants to respond to CASE's First, Third, and Fourth Motions for Summary Disposition (filed 10/6/84, 11/2/84, and 1/14/85, respectively) /3/. We suggest that the date for the filing of such response should be September 4, 1985.
6. The Board should invite the NRC Staff to respond to CASE's First, Third, and Fourth Motions for Summary Disposition. We suggest that the date for the filing of such response should be September 16, 1985.
7. The Board should invite Cygna Energy Services to respond to CASE's First, Third, and Fourth Motions for Summary Disposition /4/. We suggest that the date for the filing of such response should be September 16, 1985.

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/3/ CASE's 10/22/84 Second Motion for Summary Disposition was covered by the Board's 10/26/84 Memorandum (Intent to Retain Academic Expert). See also the Board's 11/9/84 Memorandum (Testimony from Dr. Arthur P. Boresi).

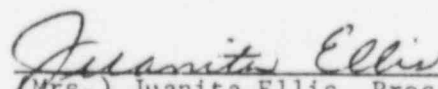
/4/ We note that Cygna "responded" to CASE's Third Motion for Summary Disposition by basically stating that they didn't want to answer it, they wanted to have hearings instead. This is clearly contrary to the intent of NRC regulations governing Motions for Summary Disposition and their responses, since one of the primary reasons for them is to narrow the issues for trial so that hearing time is not unnecessarily wasted by the Board and parties.

8. The Board should order Applicants to file by a date certain exactly what their intentions are regarding Cygna's role in the design review of Comanche Peak. This is necessary since it appears that Applicants are now apparently attempting to phase out Cygna's independent protocol-controlled effort with the CPRT Plan which is governed by no such restrictions. CASE suggests that the date for filing be September 4, 1985.
9. If any of the parties does not respond at all or does not respond by the date designated by the Board (with any extensions being granted only upon a showing of extraordinary necessity), the Board should rule upon what is in the record regarding each Motion for Summary Disposition and responses.

Applicants' previous and latest litigation strategies have already severely damaged CASE's due process rights in these proceedings. The Board should require Applicants, NRC Staff, and Cygna (should it want to participate) to comply with NRC regulations regarding Motions for Summary Disposition, as modified with the approval of the Board and all parties.

CASE urges that the Board adopt these preliminary steps which will allow the Board and parties to better determine the status of the record regarding design/design QA issues. After that time, it will be appropriate to consider the next step to resolve these issues or to deny the operating license.

Respectfully submitted,

  
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(Mrs.) Juanita Ellis, President  
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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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In the Matter of  
  
TEXAS UTILITIES ELECTRIC  
COMPANY, et al.  
(Comanche Peak Steam Electric  
Station, Units 1 and 2)

Docket Nos. 50-445-1  
and 50-446-1

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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of  
CASE's Proposal Regarding Design/Design QA Issues in Response to Applicants'  
6/28/85 Current Management Views and Management Plan for Resolution of All  
Issues

have been sent to the names listed below this 15th day of August, 1985,  
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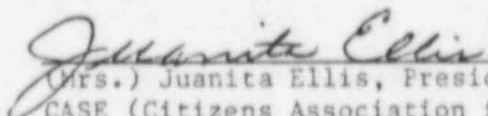
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