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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before Administrative Judges:

Peter B. Bloch, Chairman
Dr. Kenneth A. McCollom
Dr. Walter H. Jordan
Herbert Grossman, Esq.

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In the Matter of

Docket Nos. 50-445-OL & OL-2
50-446-OL & OL-2

TEXAS UTILITIES ELECTRIC COMPANY, et al.

ASLBP No. 79-430-06 OL

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

December 23, 1985

MEMORANDUM AND ORDER

MEMORANDUM
(Discovery)

The purpose of this memorandum is to resolve discovery questions left open at the prehearing conference held in Dallas, Texas on November 12, 1985.

Request 1.e. Texas Utilities Electric Co., et al. (Applicants) have agreed to supply the current job assignment of each witness in operating license proceedings. We will not require them to produce, as well, the present job of witnesses who testified before the Department of Labor but not before the Board. See Tr. 24196 (request withdrawn). The additional information is not strongly enough related to matters pending in this proceeding.

Request 1.g. Citizens Association for Sound Energy (CASE) has requested extensive personnel information related to recent personnel changes within Applicants' organization. We find that this information

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is sufficiently relevant to Contention 5 to justify the discovery down to the level of personnel equivalent to Mr. Brandt (Tr. 24198), subject to the protective order previously entered into by the parties. The information may be relevant to making a complete evaluation of CASE's allegation of a pattern of intimidation and to the evaluation of Applicants' argument that it has made a break from past management practices and that previous practices should be considered irrelevant. Should CASE determine that information discovered by it is sufficiently important to be introduced into evidence, we will at that time consider whether the protective order should be lifted in the interest of having a complete public record.

Request 2. This request is overly broad, seeking documents that apparently go beyond the scope of Contention 5. It shall be denied. To the extent that CASE is interested in consultants other than the Comanche Peak Response Team (CPRT), we are expecting a separate motion on that subject. Tr. 24299-300 (CASE should file by January 3, 1986).

Request 5. This request relates to the costs of delay in licensing of Comanche Peak. Generally, most of these questions are related to CASE's allegation that harassment, intimidation and related breakdowns in QA/QC were part of a pattern motivated by the desire to place costs and scheduling ahead of quality. Tr. 24203. However, we do not believe that Applicants are contesting the allegation that delay costs money. Indeed, we take official notice that delay in the completion of the Comanche Peak units has substantial financial repercussions, in excess of \$700,000 for each day of unnecessary delay. Given our willingness to

take official notice of this fact (and contingent on that determination surviving possible challenges by the parties), we will strike these interrogatories as beyond the scope of matters that are in controversy.

We do not think there is a close enough connection to Contention 5 to permit CASE to pursue its suspicion that it could demonstrate a connection between a pattern of intolerance for employee complaints and specific scheduling commitments made by Applicants.

Request 6.d. CASE shall have access to all Safeteam documents for the purpose of learning about matters in controversy. See Tr. 24204, 207. For the purpose of protecting Applicants' program, the information shall be received subject to the protective agreement between the parties, subject to subsequent motion concerning release of some or all of the information. This ruling does not imply any Board ruling concerning the appropriateness of proof that the Safeteam represented a necessary improvement over past QA/QC practices.

Request 7. CASE seeks a variety of documents related to the status of licensing and construction of Comanche Peak. We are not persuaded that these documents are related to Contention 5. The request shall be denied.

Request 10.g. Action on this request was deferred during the hearing awaiting motion by CASE.

Request 11. We shall deny Request 11, dealing with scheduling forecasts, at this time. However, should Applicants seek once again to persuade us of the need for expedition of this proceeding in order to meet its scheduling needs, we will require it to provide to CASE all of

this requested information and we will permit CASE an ample opportunity to study the information before we reach any conclusions on the need for expedition. Applicants may avoid delay that may occur in this manner by voluntarily furnishing this information at this time.

Request 12. Applicants objections to discovery about the MAC report are overruled, except to the extent that materials have already been provided. We have not cut off discovery about the MAC report. Given Applicants slow response to the original discovery requests covering the MAC report, we see no reason to require CASE to forego reasonable discovery about the report.

Request 13. CASE has the right to obtain information about the t-shirt incident developed since July 1, 1984. Although CASE has rested with respect to that incident, the discovery is appropriate to permit CASE to evaluate the need to reopen its case or to respond to the Staff's case, should it choose to present one. This request shall be allowed.

Request 14.b. This request shall be allowed for the same reason that we have allowed request 13.

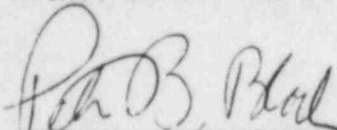
Request 15. This request is highly relevant to Contention 5. It is essential to CASE's contention of a pattern of intimidation and ineffective QA/QC. However, Applicants are correct in stating that there was an opportunity to acquire information about 15.b. Consequently, that request shall be limited to information developed since July 1, 1984, similar to the requests on the T-Shirt and Liner Plate incidents. See Tr. 24208 (CASE apparently accepts this time limitation).

Request 16. This request shall be denied, pending receipt of a motion from CASE concerning the craft-cut-off rule adopted by the Board.

O R D E R

For all the foregoing reasons and based on consideration of the entire record in this matter, it is this 23rd day of December 1985 ORDERED that the actions announced in the accompanying memorandum are immediately effective. To the extent indicated, Applicants shall respond promptly.

THE
ATOMIC SAFETY AND LICENSING BOARD


Peter B. Bloch, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland