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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION '85 DEC 24 A10:29

ATOMIC SAFETY AND LICENSING APPEAL BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Administrative Judges:

Alan S. Rosenthal, Chairman
Dr. W. Reed Johnson
Thomas S. Moore

December 23, 1985

In the Matter of)	
)	
TEXAS UTILITIES ELECTRIC)	Docket Nos. 50-445 OL & OL-2
COMPANY, <u>ET AL.</u>)	50-446 OL & OL-2
)	
(Comanche Peak Steam Electric)	
Station, Units 1 and 2))	
)	

ORDER

We have just learned of the Docket 2 Licensing Board's December 12, 1985 unpublished memorandum in this operating license proceeding. That memorandum reads in full as follows:

We have received three comments from the parties concerning ways of providing for notice that material in one docket is relevant to the other docket. In light of those filings, it will not be difficult for us to implement an effective notice procedure.

However, the comments of the Staff of the Nuclear Regulatory Commission persuade us that serious consideration should be given to unification of the two dockets, which now appear to us to be more interrelated than we first thought. Were the Appeal Board not already involved in that question, we would take it up at this time. Under the circumstances, we will defer to the Appeal Board concerning possible unification and we will postpone consideration of the fair notice question.

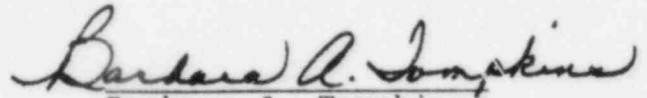
In referring to our involvement in the question of docket unification, the Docket 2 Licensing Board undoubtedly had in mind our December 4, 1985 unpublished order in which we scheduled oral argument for January 3, 1986, on the applicants' Petition for Directed Certification of Licensing Board's Order of October 31, 1985. Although the December 4 order indicated that the oral argument would encompass questions relating to whether all further proceedings on the intervenor's Contention 5 should be conducted by a single Licensing Board, it was not our intention to foreclose either of the current Licensing Boards from giving "serious consideration * * * to unification of the two dockets" if the Board deemed such consideration to be warranted.¹

Inasmuch as the Docket 2 Licensing Board has now expressly stated that it deems consideration of docket unification to be appropriate, we believe that the interests of all concerned will be served if that Board addresses the matter forthwith and announces its conclusion at the very earliest opportunity.

¹ As a general proposition, the filing of a directed certification petition has no effect upon the Licensing Board's jurisdiction over a proceeding and the authority of that Board to enter such orders as it considers justified.

It is so ORDERED.

FOR THE APPEAL BOARD

A handwritten signature in cursive script, reading "Barbara A. Tompkins".

Barbara A. Tompkins
Secretary to the
Appeal Board

Dr. Johnson did not participate in this order.