

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

**In the Matter of
Luminant Generation Company, LLC
Comanche Peak Nuclear Power Plant
Units 3 and 4
Combined License Adjudication**

Docket Nos. 52-034 and 52-035

February 16, 2010

INTERVENORS' MOTION FOR LEAVE TO FILE NEW CONTENTIONS

The Intervenors hereby move this Atomic Safety and Licensing Board Panel for leave to file new contentions pursuant to 10 C.F.R. § 2.309(f)(2) and this Panel's Initial Scheduling Order, October 29, 2009, Section D. In support of this motion the following is stated:

1. This motion arises from the Applicant's notification on January 15, 2010, to this Panel that it had made revisions to its Environmental Report (ER) related to the Intervenors' Contention 13. The subject ER revisions were attached to the notice letter. On January 19, 2010, Applicant notified this Panel that it was submitting a complete revision of the Update Tracking Report (UTR) related to the ER Revisions because of an error in the UTR submitted on January 15, 2010.
2. The proposed contentions address the ER Revisions referenced in paragraph 1.
3. The contentions are based on the ER Revisions of January 15/19, 2010, and the revisions were not available to Intervenors before January 15/19, 2010. 10 C.F.R. 2.309(f)(2)(i).
4. The ER Revisions are materially different from the information in Chapter 7 of the ER. The Applicant has described the revisions as "a new ER Section 7.5 that evaluates the impacts that a

severe accident at one of the new or existing units at the Comanche Peak site would have on the other units at the site.”¹ 10 C.F.R. 2.309(f)(2)(ii).

5. The proposed contentions are timely because they are submitted within thirty days of the ER Revisions availability to the Intervenors. Initial Scheduling Order, October 28, 2009, section D.2. 10 C.F.R. § 2.309(f)(2)(iii).²

WHEREFORE, Intervenors move this Panel for an Order allowing the filing of the proposed contentions designated CL-1 – CL-5 submitted contemporaneously with this motion.

Respectfully submitted,

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February 16, 2010

¹ Luminant’s Motion to Dismiss Contention 13 as Moot, January 25, 2010, p. 3

² The due date for the proposed contentions was February 15, 2010, a federal holiday. Accordingly, the proposed contentions are filed on February 16, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2010 a copy of “Intervenors’ Motion for Leave to File New Contentions” was served by the Electronic Information Exchange on the following recipients:

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