

# Official Transcript of Proceedings

## NUCLEAR REGULATORY COMMISSION

Title: Luminant Generation Company  
Comanche Peak Nuclear Power Plant

Docket Number: 52-034-COL and 52-035-COL  
ASLBP Number: 09-886-09-CL-BD01

Location: (telephone conference)

Date: Thursday, March 4, 2010

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OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

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: :

LUMINANT GENERATION COMPANY, : Docket Nos. 52-034-COL

LLC, : and 52-035-COL

(Comanche Peak Nuclear Power :

Plant, Units 3 and 4) : ASLBP No.

: 09-886-09-CL-BD01

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Thursday, March 4, 2010

Via teleconference

BEFORE:

ANN MARSHALL YOUNG, Chair

GARY S. ARNOLD, Administrative Judge

ALICE C. MIGNEREY, Administrative Judge

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12 ALSO PRESENT:

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14 JESSICA BIELECKI, ESQ., OGC, NRC

15 TODD EVANS, Luminant Generation Company, LLC

16 JOSEPH GILMAN, Paralegal, NRC

17 HOSSEIN HAMZEHEE, Branch Chief, NRC

18 STEVEN MONARQUE, Project Manager - Safety, NRC

19 MICHAEL WILLINGHAM, Project Manager - Environmental,

20 NRC

21 DON WOODLAN, Luminant Generation Company, LLC

22

23

24

25

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P R O C E E D I N G S

(10:03 a.m.)

CHAIRPERSON YOUNG: Well, let's go ahead.

I guess the main thing that we were wondering was whether, as we said in the order, whether the NRC staff, the other two lawyers, would be able to manage the oral argument without Mr. Biggins, and so let's go ahead and address that first.

MR. BIGGINS: Certainly, Judge. This is Jim Biggins for the NRC staff.

I did not mean to imply in any way in my motion that the other two counsel are not competent to go forward by themselves. Obviously it is, we believe, beneficial to be able to have all of our resources available in order to present our position as best as possible, as well as being able to have as many resources available to address any questions that the Board may ask.

CHAIRPERSON YOUNG: Would it be possible for you to be present on a telephone?

MR. BIGGINS: That would be possible, Judge. However, if you do decide not to change the date of the oral argument, I believe we would probably just proceed with the two counsel present at the courtroom.

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1 CHAIRPERSON YOUNG: Let me ask one other  
2 thing. We've got a total of, let's see, there are, I  
3 think, six contentions on the alternative and how many  
4 on the co-location?

5 MR. BIGGINS: Five.

6 CHAIRPERSON YOUNG: Five? How does  
7 everyone feel about being able to complete oral  
8 argument on all of those contentions in one day?

9 We had considered -- hi, come in.

10 JUDGE MIGNEREY: Hi. Sorry the Metro took  
11 so long.

12 CHAIRPERSON YOUNG: I was just asking how  
13 the parties felt about completing oral argument on the  
14 11, I guess, contentions.

15 MR. BIGGINS: Well, Judge, this is Jim  
16 Biggins again for the NRC staff.

17 In addition to what you mentioned, there's  
18 also the motion to amend a contention as well.  
19 However, we feel that our position was well documented  
20 in our pleadings and really believe that the oral  
21 argument's main purpose would just be to answer the  
22 questions that the Board may have on these topics.

23 MR. FRANTZ: And this is Steve Frantz for  
24 Luminant.

25 Although there are a number of

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1 contentions, they really fall into two groups and they  
2 are very similar in nature, and so even though the  
3 topics are not large, we believe that it should be  
4 possible to complete the oral argument in one day.

5 CHAIRPERSON YOUNG: One of the things that  
6 we had thought about was making sure that wherever we  
7 set the oral argument, that we could go late on  
8 Wednesday. Giving ourselves the next morning would be  
9 somewhat more problematic just because it takes some  
10 time to get from there, wherever we hold it, to the  
11 airport, and if we leave the next afternoon, we'd be  
12 under some time constraints.

13 Let's hear from the Intervenors.

14 PARTICIPANT: I'm not sure they're on the  
15 line.

16 CHAIRPERSON YOUNG: Oh, I thought they got  
17 on the line.

18 PARTICIPANT: No.

19 CHAIRPERSON YOUNG: Is there anyone from  
20 the Intervenors present?

21 (No response.)

22 CHAIRPERSON YOUNG: Well, I think we're  
23 going to have to start over again, and let's wait for  
24 them and see if they show up, and if not, maybe we'll  
25 give them a call.

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1 (Whereupon, the foregoing matter went off  
2 the record at 10:07 a.m. and went back on  
3 the record at 10:17 a.m.)

4 CHAIRPERSON YOUNG: Hello, everyone.

5 MR. BIGGINS: Hello. The staff is here.

6 MR. FRANTZ: Steve Frantz is here.

7 CHAIRPERSON YOUNG: This is Judge Young.

8 I just wanted to let you know that we did try to  
9 contact Mr. Eye. So let's give him five more minutes,  
10 and if he doesn't come on, Mr. Biggins, he was  
11 available on the alternative dates that you suggested,  
12 the 15th and 16th.

13 MR. BIGGINS: That's correct, Judge.

14 CHAIRPERSON YOUNG: Okay. And it sounds  
15 as though everyone would be available on those dates.

16 MR. FRANTZ: That's correct.

17 PARTICIPANT: Meaning oral arguments on  
18 the 15th.

19 CHAIRPERSON YOUNG: We were thinking a  
20 site visit the morning of the 16th.

21 MR. BIGGINS: Judge, let me -- obviously  
22 I didn't address which day would be for which event,  
23 and I have to make sure to inform you that I did not  
24 have a specific discussion with Mr. Eye or Mr. Franz  
25 regarding whether the site visit would be the first

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1 ~~day or the second day~~

2 CHAIRPERSON YOUNG: Well, I would assume  
3 that if everyone is available on both days, then it  
4 doesn't really matter that much to them when we do it.  
5 I think doing the site visit on the morning of the  
6 16th would allow us to fly back on that afternoon.

7 MR. BIGGINS: Okay. I just wanted to be  
8 clear that I did not have that discussion with the  
9 other parties.

10 CHAIRPERSON YOUNG: Do you think that it  
11 would make any difference to anyone?

12 MR. BIGGINS: I don't believe so, but I  
13 didn't want to represent that to the Board.

14 MR. FRANTZ: This is Steve Frantz from  
15 Luminant. We would be available either day.

16 CHAIRPERSON YOUNG: Okay. We'll give them  
17 two more minutes.

18 Now, we probably should leave open the  
19 possibility of needing to go late on the 15th. The  
20 alternative to that is we could just do as much as we  
21 can, and if for some reason we don't finish  
22 everything, we could maybe the following week have a  
23 telephone conference to finish argument on anything  
24 that wasn't finished.

25 As a matter of fact, what we might do is

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1 ~~keep the~~ -- does anyone have any preference whether  
2 it would be the 19th or 20th that we keep for --

3 PARTICIPANT: Twentieth.

4 CHAIRPERSON YOUNG: -- any possible  
5 spillover?

6 PARTICIPANT: Twentieth.

7 CHAIRPERSON YOUNG: The 20th? Okay. So  
8 let's -- well, let's just say the 15th, oral  
9 argument; the 16th, a.m. site visit.

10 How long does a site visit take do you  
11 think, Mr. Frantz?

12 MR. FRANTZ: I would be surprised if it  
13 takes much more than an hour. Basically the area is  
14 not really developed. It's just a plot of land that's  
15 near Units 1 and 2, and so there's not a whole lot to  
16 see, I don't believe, on the site that's going to be  
17 of interest to the Board in connection with this  
18 proceeding.

19 CHAIRPERSON YOUNG: So we could set it  
20 for, say, ten o'clock on the 16th?

21 MR. FRANTZ: That would be fine.

22 CHAIRPERSON YOUNG: And then that would  
23 give us time to get there and then plenty of time to  
24 get from there to the airport that afternoon.

25 MR. FRANTZ: Yes. It's approximately, I

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1 ~~guess, an hour and a half drive to the airport from~~  
2 the site.

3 CHAIRPERSON YOUNG: How long does it take  
4 to get to the site from the town that we were in last  
5 time?

6 JUDGE ARNOLD: Granbury.

7 CHAIRPERSON YOUNG: Granbury.

8 MR. FRANTZ: That's about a 15 minute  
9 drive, 20 minute drive.

10 CHAIRPERSON YOUNG: How about nine  
11 o'clock?

12 MR. FRANTZ: That would be fine with us.  
13 I would prefer to do it earlier. Nine o'clock is --

14 MR. BIGGINS: Nine a.m. works for the  
15 staff as well, Judge.

16 CHAIRPERSON YOUNG: Okay, and then we'll  
17 have April 20th for spillover oral argument if we need  
18 it.

19 I didn't say we were going back on the  
20 record. Court Reporter, have you been taking all of  
21 this?

22 THE REPORTER: I have a recording of it,  
23 but we don't have to put any of this on the record.

24 CHAIRPERSON YOUNG: No, I wanted you to.

25 THE REPORTER: Okay. All right, yeah.

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1 ~~No, I mean, I have the recording.~~

2 CHAIRPERSON YOUNG: Okay. Good.

3 THE REPORTER: Everything is clear.

4 CHAIRPERSON YOUNG: All right. It has  
5 been more than two minutes. It has been more than  
6 five minutes since I said five minutes. So I think  
7 sine Mr. Eye had indicated that they were available on  
8 the 15th and 16th and have previously had not said  
9 that they would not be available on the 20th, let's  
10 just go with those three dates: 15th for oral  
11 argument, 16th starting at nine o'clock, the site  
12 visit, and the 20th for any additional oral argument  
13 by phone.

14 And we're going to look into the best  
15 place to do the hearing. If for some reason we can't  
16 get the same courtroom or a courtroom in the same  
17 courthouse, does the staff or Applicant know of  
18 another alternative that might work?

19 And I guess the town that is south of the  
20 plant is Glen Rose, right?

21 MR. FRANTZ: That's correct. I know the  
22 staff has had a public meeting there in the Conference  
23 Center in Glen Rose. That's a fairly large facility.

24 CHAIRPERSON YOUNG: Okay. Well, we'll  
25 check out both of those and let everyone know in an

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1 ~~order, and is there anything else that we need to~~  
2 address today?

3 MR. BIGGINS: Not from the staff, Judge.

4 MR. FRANTZ: Not from the Applicant.

5 CHAIRPERSON YOUNG: All right. Thank you,  
6 and that will conclude this session.

7 (Whereupon, at 10:19 a.m., the above-  
8 entitled matter was adjourned.)  
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