

NRC PUBLIC DOCUMENT ROOM

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
TEXAS UTILITIES GENERATING COMPANY,)	Docket Nos. 50-445
ET AL.)	50-446
)	
(Comanche Peak Steam Electric)	
Station, Units 1 and 2))	

ORDER RELATIVE TO MOTION FOR CONTINUANCE

On April 6, 1979, Association of Community Organizations for Reform Now (ACORN) and West Texas Legal Services (WTLS) requested that the time for filing contentions and the first prehearing be continued due to the following: 1) Three Mile Island 2; 2) Testing of concrete pours at Comanche Peak; 3) Federal Energy Regulatory Commission consideration of need for power; 4) Inquiries by Congressman Morris K. Udall and Senator George McGovern; and 5) Lack of Final Safety Evaluation Report (SER) by the NRC Staff.

On April 25, 1979, the Applicant opposed the motion on the bases that the Rules of Practice require the prehearing conference and Petitioners have not demonstrated a valid basis to postpone.

On April 26, 1979, the NRC Staff opposed the motion on the premise that Petitioners lacked standing. The Staff

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also stated that the motion is in the nature of a "stay" and that the Petitioners have not met the criteria for a stay set forth in 10 CFR 2.788(e). The Staff also mentioned that based on new information, contentions may be amended with leave of the Board. The Staff pointed out that the Applicant's Final Safety Analysis Report and Environmental Report are available for the purpose of drafting contentions and that the lack of the SER is not an acceptable basis for delay of the prehearing conference. The Staff concluded that petitioners' allegations of harm and prejudice are without merit.

The motion is based on the fact that there are ongoing open matters. This more often than not is the case but there are matters that are ripe for consideration at the prehearing conference. The Applicant and the NRC Staff have different positions on the various petitioners' "interest" in the proceeding. That matter alone would warrant proceeding with the scheduled prehearing conference since this is a fundamental matter which must be resolved and the Board will be further aided by a discussion of this issue by the Petitioners, Applicant and NRC Staff. The requirements for "standing" being interest and at least one valid contention, the Applicant and Staff are requested to address in writing prior to

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the prehearing conference any additional plea they may wish to submit on interest and their position as to whether they believe there is one or more acceptable contentions for each of the petitioners. The petitioners and the parties will be invited to address these issues orally at the prehearing conference. If the Board determines that interest and at least one contention has been established for a Petitioner, then that Petitioner would be granted "standing" as an Intervenor. Then the Board would expect the Applicant and Staff to meet with the Intervenor and try to reach a stipulation on one or more other contentions. Intervenors may request additional contentions be accepted if new information becomes available at a later date.

The motion is denied.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

Elizabeth S. Bowers
Elizabeth S. Bowers, Chairman

Dated at Bethesda, Maryland
this 9th day of May 1979.

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