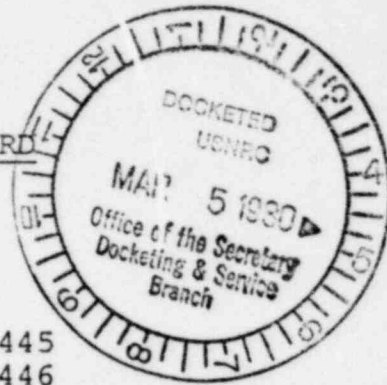


March 4, 1980

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)	
)	
TEXAS UTILITIES GENERATING)	Docket Nos. 50-445
COMPANY, <u>et al.</u>)	50-446
)	
(Comanche Peak Steam Electric)	
Station, Units 1 and 2))	

APPLICANTS' REPLY TO CASE'S REQUEST FOR ORDER
COMPELLING PRODUCTION OF DOCUMENTS AND
POSTPONING PREHEARING CONFERENCE

By its pleading dated February 25, 1980, Intervenor CASE requested the Atomic Safety and Licensing Board ("Board") (1) to order the NRC Staff and the Applicants to provide CASE with copies of materials "bearing" on their proposed contentions, (2) to order a meeting between the Staff, Applicants and CASE, apparently "to attempt to resolve the differences" between the parties regarding the CASE contentions, and (3) to postpone the prehearing conference until that meeting can be held. In response, the Applicants urge that the requests for production of documents and for a Board-imposed meeting of the parties be denied. With respect to the scheduled prehearing conference, the Applicants believe that at this late date no delay of the prehearing conference is warranted or should be permitted.

Prior to the prehearing conference there is no legal requirement that any party reveal to other parties the bases for their positions regarding the admissibility of contentions. Furthermore, until contentions have been admitted by the Board, and discovery has commenced, no party may compel another to produce information or documents. See generally 10 CFR §2.718 and 2.740.

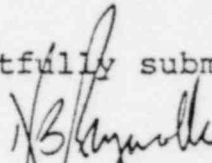
In addition, CASE has erroneously assumed that it has certain rights inherent in negotiations preceding the prehearing conference. CASE's statement (at p. 6) that holding the prehearing conference before preliminary negotiations and certain discovery are concluded to its satisfaction would deny CASE due process of law and "work a surprise" against it demonstrates CASE's misunderstanding of the proper sequence of events. Negotiations such as these are conducted for the convenience of all parties in the interest of administrative efficiency. They are not, as CASE apparently believes, compelled by law or regulation.

With respect to CASE's request to postpone the prehearing conference apparently scheduled for April 30, we believe further delay of this proceeding is totally unwarranted. As discussed above, CASE's arguments for compelling further negotiations and commencing discovery prior to the prehearing conference are unfounded and may not serve as a basis to postpone the conference. The Staff, Applicants and CASE

have already established their respective positions regarding most of CASE's contentions through negotiations. Any issues on which agreement has not been reached must now be brought before the Board for final resolution. We urge the Board to hold the prehearing conference as scheduled.

Finally, we note that while the prehearing conference may be held in the Dallas/Fort Worth area (as indicated by the Board), the evidentiary hearings must be conducted in the vicinity of the site (i.e., Granbury/Glen Rose area). See 10 CFR Part 2, Appendix A.I.

Respectfully submitted,



Nicholas S. Reynolds
Debevoise & Liberman
1200 Seventeenth Street, N.W.
Washington, D.C. 20036

March 4, 1980

)

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NUCLEAR REGULATORY COMMISSION

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Station, Units 1 and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of Applicants' Reply To Case's Request For Order Compelling Production Of Documents And Postponing Prehearing Conference, dated March 4, 1980, in the captioned matter have been served upon the following by deposit in the United States mail this 5th day of March, 1980:

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March 5, 1980