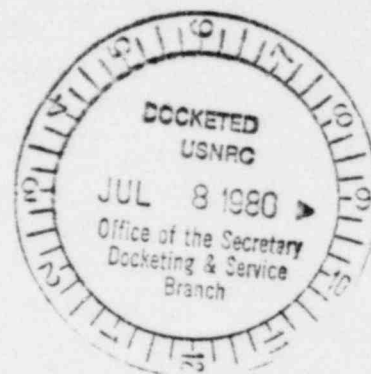


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL PANEL

Alan S. Rosenthal, Chairman



In the Matter of

TEXAS UTILITIES GENERATING COMPANY  
et al.

(Comanche Peak Atomic Electric Station,  
Units 1 and 2)

Docket Nos. 50-445 OL  
50-446 OL

SERVED

JUL 9 1980

Mrs. Juanita Ellis, Dallas, Texas, for the  
intervenor, Citizens Association for  
Sound Energy.

MEMORANDUM AND ORDER

July 3, 1980

(ALAB-599)

Citizens Association for Sound Energy (CASE) endeavors to appeal from so much of the Licensing Board's unpublished June 16, 1980 prehearing conference order as rejected several of the contentions which that organization wishes to litigate in this operating license proceeding. It is apparent from that order, however, that other CASE contentions were accepted by the Licensing Board as litigable and, thus, that the organization has been admitted to the proceeding as an intervenor. In these circumstances, the appeal must be summarily dismissed on the ground

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that it is unauthorized by the Commission's Rules of Practice. Houston Lighting and Power Co. (Allens Creek Nuclear Generating Station, Unit 1), ALAB-585, 11 NRC 469 (1980), and ALAB-586, 11 NRC 472 (1980). As there observed:

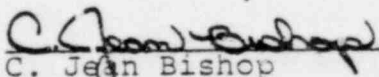
Those Rules do not permit a person to take an interlocutory appeal from an order entered on his intervention petition unless that order has the effect of denying the petition in its entirety. 10 CFR 2.714a; Gulf States Utilities Company (River Bend Station, Units 1 and 2), ALAB-329, 3 NRC 607, 610 (1976), and cases there cited.

ALAB-585, 11 NRC at 470; ALAB-586, 11 NRC at 473.<sup>1/</sup>

Appeal dismissed.

It is so ORDERED.

FOR THE APPEAL PANEL  
CHAIRMAN

  
C. Jean Bishop  
Secretary to the  
Appeal Panel

This action was taken by the Appeal Panel Chairman under the authority of 10 CFR 2.787(b).

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<sup>1/</sup> As also pointed out in those decisions, an intervenor in CASE's situation must await the rendition of the Licensing Board's initial decision. If dissatisfied with that decision, an appeal can be taken from it under 10 CFR 2.762(a). One of the matters that can be raised on such an appeal is whether the Licensing Board erred in rejecting one or more of the appellant's contentions. Further, the appellant may then complain of any Board-ordered revisions in the wording of those of its contentions which were admitted to the proceeding. (CASE's premature appeal contains a claim of error on that score as well.)