

11/20/80

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

TEXAS UTILITIES GENERATING COMPANY,
ET AL.

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

Docket Nos. 50-445
50-446

NRC STAFF'S COMMENTS ON PLANS FOR CONSOLIDATION OF PARTIES

The NRC Staff ("Staff") files these comments in response to the "Announcement of Plans for Consolidation of Parties" issued by the Atomic Safety and Licensing Board ("Licensing Board") on October 31, 1980. The Staff interprets the Licensing Board's announcement as a proposal to designate a lead intervenor from among the intervening parties only as to those admitted contentions in which more than one intervenor has raised substantially the same question, thereby consolidating those intervenors as to those contentions throughout the proceeding, pursuant to 10 CFR § 2.715a.

The Staff has reviewed the 24 "Accepted Contentions" in this proceeding and notes that three of the contentions and portions of two others (Accepted Contentions 4, 5, 22(f), 23, and 24(a)) were derived from contentions filed by more than one intervenor. As to each of these contentions, the Board has already determined that the originally proposed underlying contentions raised substantially the same question and that it was appropriate to restate

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the similar contentions in a single consolidated contention. The Licensing Board's proposed plan of designating a lead intervenor for these contentions is merely the additional step of consolidating the presentation of the intervenors' evidence and argument, as permitted by 10 CFR § 2.715.

The Staff believes that the proposed consolidation, as to these few contentions, will serve to reduce the presentation of duplicative and repetitive evidence and argument while, at the same time, it will preserve the rights of the intervening parties to obtain full adjudication of their contentions. For these reasons, the Staff supports the designation of a "lead" intervenor for certain limited purposes.

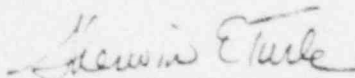
Specifically, the Staff supports the designation of a "lead" intervenor for the purposes of conducting further discovery, presenting direct evidence and conducting cross-examination. The Staff anticipates that such consolidation as to the contentions which raise substantially the same issues would assist in the orderly and expeditious adjudication of such contentions. However, as to the submission of proposed findings of fact and conclusions of law and the presentation of argument, the Staff believes that whatever savings in time might be gained by having only one "lead" intervenor would be offset by the loss of assistance to the Licensing Board as would be obtained from receiving the views of the "non-lead" intervenors. Therefore, the Staff supports the consolidation of intervenors on appropriate contentions, not throughout the proceeding, but limited to conducting further discovery, presenting direct testimony and engaging in cross-examination; the Staff

suggests that the question of consolidated proposed findings of fact, conclusions of law and argument be deferred until later in the proceeding, at which time the Board may wish to decide the matter based upon the expressed views of the parties.

At this time, the Staff expresses no opinion as to which intervenor should serve as "lead" intervenor for these contentions; rather, the Staff believes that the selection of the appropriate "lead" intervenor is a matter best left to the agreement of the intervenors and the judgment of the Licensing Board.

As to the other contentions, which raise issues presented by one or another of the intervenors alone, the Staff believes that none of those contentions raises substantially the same question as any other contention. Accordingly, the Staff believes that consolidation of the intervenors for those contentions which were asserted by one or another of the intervenors alone is inappropriate under the provisions of 10 CFR § 2.715a.

Respectfully submitted,



Sherwir E. Turk
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 20th day of November, 1980

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Atomic Safety and Licensing Appeal
Panel (5)*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Docketing and Service Section (7)*
Office of the Secretary
U.S. Nuclear Regulatory Commission
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