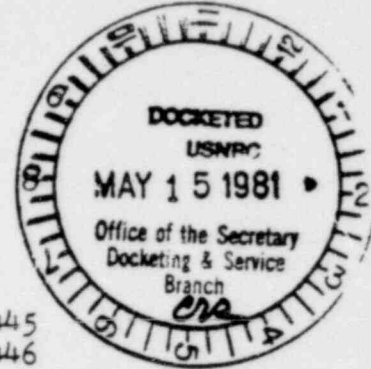




RELATED CORRESPONDENCE

5/12/81



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)

Vertical line separator

Docket Nos. 50-445
and 50-446

(Application for
Operating License)

CFUR'S MOTION TO COMPEL
RESPONSIVE ANSWERS TO CFUR'S
SECOND SET OF INTERROGATORIES TO
APPLICANTS AND REQUESTS TO PRODUCE

Pursuant to 10 CFR 2.740(f), Citizens for Fair Utility Regulation (CFUR) files this Motion to Compel Responsive Answers to CFUR's Second Set of Interrogatories to Applicants and Requests to Produce and moves the Atomic Safety and Licensing Board (Board) to order the Applicants to provide the discovery as set out herein.

I.

As they did in their Answers to CFUR's First Set of Interrogatories (and as they do in their Answers to CFUR's Third Set of Interrogatories), the Applicants are unilaterally imposing unjust and very broad restrictions on the scope of CFUR's Second Set of Interrogatories. The Applicants' restrictions occur as the Applicants select one Contention with which they "assume" the Interrogatories are concerned. Secondly, the Applicants interpret their selected Contention as narrowly as possible and blanketly refuse to answer any inquiry outside of that interpretation as not being relevant. This practice by the Applicants should be strongly disapproved by the Board. Not only should the Applicants be ordered to answer all of CFUR's Second Set of Interrogatories to Applicants, but the Board should impose sanctions on the Applicants for their purely dilatory and obstructionist practice of simply refusing to answer CFUR's interrogatories.

As set out in Part I of CFUR's Motion to Compel Responsive Answers to CFUR's Interrogatories to Applicant of February 26, 1981 (hereinafter CFUR's First Motion to Compel), 10 CFR 2.740(b)(1) entitles CFUR to seek discovery about "any matter, not privileged, which is relevant to the subject matter involved in the proceeding." In their Answers to CFUR's Second Set

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of Interrogatories, Applicants do not object to any of the Interrogatories based on the proper standard of relevancy. Indeed, the Applicants cannot impose a proper relevancy objection since each of CFUR's Second Set of Interrogatories inquire about matters which relate to the construction of the CPSES structures and consequently are highly relevant to the ultimate issue in this proceeding of whether the Applicants should be issued an operating license.

Every objection contained in the Answers to CFUR's Second Set of Interrogatories (which total objections to 15 Interrogatories) is that the inquiry is broader than the Applicants believe Contention 7 should be. This form of objection is not valid since one of the goals of discovery is to define the issues to be raised in the proceeding. Pacific Gas and Electric Company (Stanislaus Nuclear Project, Unit 1, LBP-78-20, 7 Nrc 1038, 1040 (1978)). Discovery is not limited by the interpretation a party places on a contention. Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (Susquehanna Steam Electric Station, Units 1 and 2, ALAB-613, NRC (September 23, 1980)). In support of its position on this point, CFUR adopts and refers the Board to the arguments and authorities set out in Part I of its First Motion to Compel.

It should be noted that many of the Interrogatories to which Applicants objected are addressed to precisely the same subjects contained in the Applicants Interrogatories which CFUR was compelled to answer by the Board. The Applicants now object to many of CFUR's Interrogatories which inquired about loose rock and the foreign material being introduced into CPSES structures. (See Interrogatory 23 et seq). With regard to the Applicants' Interrogatories, the Board has already held that such inquiry is relevant. See Memorandum and Order of April 14, 1981, page 9. Fairness requires that the Applicants answer CFUR's Interrogatories.

All of the Applicants' objections to CFUR's Second Set of Interrogatories should be overruled and the Applicants should be ordered to provide full, complete and good faith answers to Interrogatories 12 through 17 and 23 through 31. The Applicants should also be ordered to cease their practice of refusing

to answer interrogatories because of their unreasonable interpretation of the Contentions involved. Further, the Board should at this time order the Applicants to answer each of CFUR's Third Set of Interrogatories to Applicants without the practice of refusing to answer based on the unreasonable selection and interpretation of a Contention.

II.

The Applicants have failed to answer several of CFUR's Second Set of Interrogatories without objection.

A.

The Applicants have failed to provide any useful identification of any document or other tangible item inquired about in CFUR's Second Set of Interrogatories. The Applicants' responses to Interrogatories 2b, 7, 8, 9, 10, 18, 19, 21 and 22 are overly general and incomplete by failing to identify with any particularity the documents and other items inquired about. The Board should order the Applicants to identify separately and with particularity each of the documents and other items which are the subject of Interrogatories 2b, 7, 8, 9, 10, 18, 19, 21 and 22.

B.

The Applicants have not properly answered Interrogatories 2d, 3, 4, 5 and 6 by failing to identify the names of the persons who were present during or have knowledge of the activity inquired about. Clearly, the identities and the location of these persons is discoverable. 10 CFR 2.740(b)(1). See also, the Board's Memorandum and Order of April 14, 1981, page 7. The Applicants have posed no objection to identify the persons inquired about in the above Interrogatories. They have simply failed to answer.

The Board should order the Applicants to answer fully and completely all parts of Interrogatories 2d, 3, 4, 5 and 6.

Respectfully submitted,

Richard L. Fouke

Richard L. Fouke

CERTIFICATE OF SERVICE

RELATED CORRESPONDENCE

I hereby certify that copies of "CFUR'S MOTION TO COMPEL RESPONSIVE ANSWERS TO CFUR'S SECOND SET OF INTERROGATORIES TO APPLICANTS AND REQUESTS TO PRODUCE" have been served on the following by deposit in the United States mail, first class, this 12th day of May, 1981.

Valentine B. Deale, Esq., Chairman
Atomic Safety and Licensing Board
1001 Connecticut Avenue N. W.
Washington, D. C. 20036

Mrs. Juanita Ellis
President, CASE
1426 South Polk Street
Dallas, TX 75224

Dr. Forrest J. Remick, Member
Atomic Safety and Licensing Board
305 E. Hamilton Avenue
State College, PA 16801

Mr. Dwight H. Moore, Esq.
West Texas Legal Services
100 Main Street (Lawyers Bldg.)
Fort Worth, TX 76102

Dr. Richard Cole, Member
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

David J. Preister, Esq.
Assistant Attorney General
Environmental Protection Division
P. O. Box 12548, Capitol Station
Austin, TX 78711

Marjorie Ulman Rothschild, Esq.
Office of Executive Legal Director
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Jeffrey L. Hart, Esq.
4021 Prescott Avenue
Dallas, TX 75219

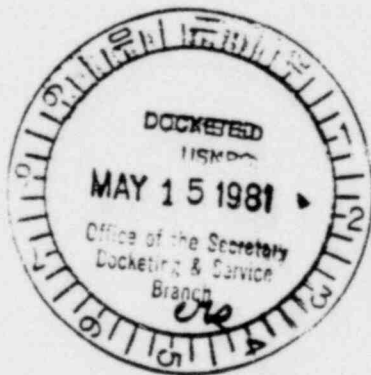
Nicholas S. Reynolds, Esq.
Debevoise & Liberman
1200 17th Street, N.W.
Washington, D.C. 20036

Arch C. McColl III, Esq.
701 Commerce Street
Suite 302
Dallas, TX 75202

Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Atomic Safety and Licensing Appeal Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555



Richard L. Fouke

Richard L. Fouke
CFUR
1668B Carter Drive
Arlington, TX 76010