

01/03/83

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))	


NRC STAFF ANSWER TO CASE'S MOTION
TO SUPPLEMENT CASE'S EXHIBITS

On December 14, 1982, Intervenor CASE filed "CASE's Motion to Supplement CASE's Exhibits" (CASE's Motion), in which CASE requests that the Atomic Safety and Licensing Board (the Board) admit the following documents into evidence:^{1/}

- Exhibit 738 -- Findings and Recommended Decision of Administrative Law Judge resulting from the August 19-21, 1982, hearings before U.S. Department of Labor Judge in the matter of Charles A. Atchison, Complainant vs. Brown & Root, Inc. (Case No. 82-ERA-9).
- Exhibit 735 -- I&E Report 82-14 dated September 29, 1982 (received by CASE 10/15/82)
- Exhibit 736 -- I&E Report 82-14 dated November 8, 1982 (received by CASE 11/22/82)
- Exhibit 739 -- I&E Report 82-14, supplemental letter dated December 9, 1982, from NRC Region IV to TUGCO
- Exhibit 740 -- Nov. 17, 1982, letter from TUGCO to NRC Region IV re: NRC IE Bulletin 82-01, Supplement 1.

CASE's Motion, at 1.

^{1/} The Board has not yet closed the record in this proceeding. See "Order (Proposed Findings of Fact; CASE Exhibits)", December 7, 1982, and "Reconsideration of December 7, 1982 Order", December 21, 1982.

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Certified By 

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The NRC Staff does not object to the admission into evidence of proposed exhibits 738, 735, 736 and 739 inasmuch as these four additional exhibits appear to be marginally relevant to the issues in controversy in this proceeding. However, the record in this proceeding, now totalling almost 6000 pages and approximately 1000 exhibits, is becoming cluttered with hundreds of marginally relevant documents introduced by CASE. The regulations specifically empower the Licensing Board to control the proceeding so that the record does not become "unnecessarily large." 10 C.F.R. § 2.757. The Staff has previously noted in response to an earlier CASE motion seeking the admission of documents, that "[T]he Board emphasized to CASE the need to 'get a manageable group of documents, eliminating the repetitive aspects, looking at the relevance. . .and not just overwhelm the record.' Tr. 3010."^{2/} Also, with the exception of the Walsh/Doyle allegations and Board Notification 82-90, the evidence already of record is sufficient for the Licensing Board to make findings with respect to the issues in controversy in Contention 5.^{3/} At this late stage in the proceeding and in view of the size of the record already compiled, CASE should be required to establish that any additional documents which it seeks to introduce are relevant and not repetitious and cumulative of the material already in the record. 10 C.F.R. § 2.743(c).

^{2/} See "NRC Staff Answer to CASE Motions Seeking Admission of Documents," November 4, 1982, at 7.

^{3/} See "NRC Staff Response to Memorandum and Order of September 22, 1982," October 12, 1982, at 20.

The Staff objects to the admission of proposed exhibit 740 as CASE has not shown how that exhibit is relevant to the matters in controversy in this proceeding. 10 C.F.R. §§ 2.743(c), 2.757(b).

Respectfully submitted,

Marjorie U. Rothschild

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Counsel for NRC Staff

Dated at Bethesda, Maryland
this 3rd day of January, 1983

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