

'83 APR -4 AIO:29

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March 29, 1983

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

Re: Texas Utilities Generating Company, et al.  
(Comanche Peak Steam Electric Station,  
Units 1 and 2), Docket Nos. 50-445 and 50-446

Dear Mrs. Ellis:

This is to confirm our telephone conversation with you today regarding the availability of the design criteria of ITT-Grinnel and NPSI. As we stated, in view of the Board's request in the March 28, 1983 conference call, we have contacted both ITT-Grinnel and NPSI, and each has agreed to make available tomorrow and Thursday (March 30 and 31) a copy of their design criteria for your inspection at the Comanche Peak site. This will be accomplished in accordance with procedures discussed below to which ITT-Grinnel and NPSI have agreed. These procedures are designed to protect the proprietary information contained in those criteria. Before you come to the site, you should contact John Finneran (817/897-4881, ext. 521 or 619) who will designate a room in which the companies will make available their criteria.

Both NPSI and ITT-Grinnel have stated that you may have someone accompany you to review these documents. However, the person may not be anyone who is employed by a potential competitor of ITT-Grinnel or NPSI. Upon completion of your review of one set of criteria, the other will be made available. In addition, both companies will permit you to take notes during your review of their criteria. However, you must obtain approval from each company if you wish to have copies made of any portion of the documents.

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With respect to the ITT-Grinnel criteria, you should contact Mr. Tom Smith of ITT-Grinnel (401/831-7000) with any requests to make copies. Mr. Smith will determine whether a protective agreement to prevent disclosure of proprietary information need be executed between you and ITT-Grinnel before you may obtain copies. With respect to the NPSI criteria, you should prepare a list of page numbers which you wish to copy. Mr. Finneran will transmit your copy list to NPSI who will indicate which pages may be copied and which pages will require execution of a protective agreement between you and NPSI before copies may be made.

Any further inquiries or arrangements regarding these design criteria should be directed to ITT-Grinnel and NPSI. We have intermediated in this matter because of the Board's request to do so, and not because we have changed our position that these documents are considered by ITT-Grinnel and NPSI to be proprietary and in any event are not in Applicants' possession.

Sincerely,

*N. S. Reynolds* *er*

Nicholas S. Reynolds  
Counsel for Applicants

OVERNIGHT DELIVERY

cc: Service List

WASHINGTON, D. C. 20036  
\*83 APR -4 10:29  
TELEPHONE (202) 857-9800

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BRANCH

March 29, 1983

Marshall E. Miller, Esq.  
Chairman, Atomic Safety and  
Licensing Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Dr. Kenneth A. McCollom  
Dean, Division of Engineering,  
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Stillwater, Oklahoma 74078

Dr. Walter H. Jordan  
Member, Atomic Safety and  
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881 West Outer Drive  
Oak Ridge, Tennessee 37830

Re: Texas Utilities Generating Company, et al.  
(Comanche Peak Steam Electric Station,  
Units 1 and 2), Docket Nos. 50-445 and 50-446

Gentlemen:

In accordance with the Board's request in its March 9, 1983 Memorandum and Order (Memorializing Conference Call) that the parties identify proposed witnesses by March 30, Applicants provide the following information.

To respond to the Board's questions regarding offsite (i.e., State and local) emergency planning, Applicants presently anticipate calling a witness panel consisting of Messrs. Alton B. Armstrong, Jr., Clarence L. Born, Larry J. Skiles, and Arthur C. Tate. Each of these gentlemen was previously sworn (Tr. 5494) and presented testimony on this topic (Applicants' Exhibit 144). Statements of their professional and educational qualifications were received into evidence as Applicants' Exhibits 144A-D. To respond to questions regarding onsite emergency planning, Applicants anticipate calling a panel consisting of Messrs. Richard A. Jones and Bobby T. Lancaster. Both Mr. Jones and Mr. Lancaster were previously sworn (Tr. 5429) and

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presented testimony on this subject (Applicants Exhibit 143). Their statements of professional and educational qualifications were received into evidence as Applicants' Exhibits 10 (Attachment A) and 143A, respectively.

In the event that rebuttal testimony is necessary with respect to the Walsh/Doyle allegations, Applicants will present as a panel Messrs. Peter S. Y. Chang and John C. Finneran, Jr. These gentlemen were previously sworn (Tr. 4772) and presented testimony in this proceeding regarding those allegations (Applicants' Exhibits 142 and 142F). Statements of their professional and educational qualifications were received into evidence as Applicants' Exhibits 142A and 142B.

To the extent that matters addressed in the Board Notifications need be addressed by Applicants, some or all of the following individuals will be made available as a panel to respond to Board questions - Messrs. David H. Wade, Ronald G. Tolson, John C. Finneran, Jr., Antonio Vega and John T. Merritt. Mr. Wade has not testified in this proceeding. A statement of his professional and educational qualifications was attached to his affidavit submitted with "Applicants' Assessment of Relevance and Significance of Board Notifications," filed March 18, 1983. Messrs. Merritt, Tolson and Vega were previously sworn and submitted testimony in this proceeding (Tr. 789, 510). Mr. Finneran also has been sworn and testified in this proceeding as noted above.

Finally, this will reconfirm that each of the eleven Board witnesses has committed to appear and testify on April 4 without being subpoenaed.

Sincerely,

*N. S. Reynolds*

Nicholas S. Reynolds  
Counsel for Applicants

cc: Service List

HAND DELIVERED

March 29, 1983

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'83 APR -4 AIO:29

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	)	(Application for
Station, Units 1 and 2)	)	Operating Licenses)

APPLICANTS' RESPONSE TO  
BOARD QUESTIONS REGARDING  
EMERGENCY PLANNING

By Memorandum and Order of March 9, 1983, the Atomic Safety and Licensing Board ("Board") documented the results of a March 8 conference call regarding matters related to the resumption of hearings scheduled for April 4, 1983. During that conference call, the Board questioned whether there was any need to hold open the record for the introduction of final findings of the Federal Emergency Management Agency ("FEMA") regarding offsite emergency preparedness. As discussed more fully below, Texas Utilities Generating Company, et al. ("Applicants") maintain that the record need not be held open to receive such findings.

In this proceeding, only Contention 22 raises issues related to offsite emergency preparedness. In response to this contention, witnesses from FEMA provided testimony and were subject to cross-examination by all parties and

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questioning by the Board. Such testimony was based on FEMA's review of offsite emergency preparedness, including state and local emergency response plans. FEMA's continuing review of this area will eventually result in preparation of its final findings. However, the final FEMA findings must, in part, be based on FEMA's review of the final emergency exercise involving both offsite and onsite emergency response personnel. Tr. 5723. Indeed, based on its policy (shortly to be codified), FEMA cannot issue its final findings until after review of the emergency exercise. 44 C.F.R. §350.8(f) (proposed), 47 Fed Reg. 36386, 36391 (August 19, 1982). See 47 Fed. Reg. at 36388, where FEMA states that the provisions of the proposed rule 44 C.F.R. Part 350 are intended to be FEMA policy until the final rule is issued. See also Tr. 5723-4, where a FEMA witness stated that the process of preparing final FEMA findings would follow that set forth in the proposed rule referenced above. In short, it is clear that FEMA's final findings are, in part, based on, and cannot be issued until after the emergency response exercise now scheduled to be conducted in October 1983.

The NRC has promulgated regulations which address the extent of Licensing Board review required for decisions regarding offsite emergency planning issues. 47 Fed. Reg.

30232 (July 13, 1982). The Commission stated there that "the rule changes clarify that the emergency preparedness exercises are not required for a Licensing Board, Appeal Board, or Commission licensing decision." 47 Fed. Reg. at 30233. As noted above, the emergency exercise must be conducted before (and constitutes an integral part of) the final FEMA findings. Thus, for this Board to await final FEMA findings before issuing a final decision on the operating license application would be contrary to these Commission regulations. Accordingly, the Board should not await issuance of final FEMA findings before rendering its decision regarding Contention 22.\*

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\* Applicants are cognizant of the Licensing Board decision in Cincinnati Gas and Electric Co. (William H. Zimmer Nuclear Power Station, Unit 1), \_\_\_ NRC \_\_\_, Memorandum and Order (slip op. at p. 5) (August 24, 1982), where the Licensing Board stated that the Board's findings regarding issues in controversy involving offsite emergency preparedness would have to be delayed pending review of final FEMA findings. However, in that case the initial FEMA findings and testimony in support of those findings were totally inadequate and without a reasonable basis of support. Id. (slip op. at pp. 6-7). Thus, the Licensing Board there stated that "the absence of any basis for the FEMA witnesses' opinions led this Board to discount FEMA's testimony in its initial decision and for us to conclude that we would not issue an operating license until its final findings related to the contentions had been filed and reviewed." Id. (slip op. at p. 7). In requiring final FEMA findings prior to making the Board's ruling regarding emergency planning contentions, the Board stated that "we wish to emphasize again that our holding is limited to the facts of this case which, we believe, are significantly different from other emergency planning proceedings." Id. (slip op. at (footnote continued)

Respectfully submitted,

*N.S. Reynolds*<sup>er</sup>

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Counsel for Applicants

March 29, 1983

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(footnote continued from previous page)  
p. 11). Applicants submit that in the Comanche Peak  
proceeding, FEMA's testimony with regard to offsite  
emergency preparedness is complete, comprehensive and  
clearly has a reasonable supporting basis. In short,  
circumstances which resulted in the Zimmer holding are  
not present here.



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
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TEXAS UTILITIES GENERATING ) Docket Nos. 50-445 and  
COMPANY, et al. ) 50-446  
)  
(Comanche Peak Steam Electric ) (Application for  
Station, Units 1 and 2) ) Operating Licenses)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Applicants' Response To Board Questions Regarding Emergency Planning," in the above-captioned matter were served upon the following persons by express delivery (\*) or deposit in the United States mail, first class postage prepaid, this 29th day of March 1983, or by hand delivery (\*\*) on the 30th day of March 1983:

- \*\* Marshall E. Miller, Esq.  
Chairman, Atomic Safety and  
Licensing Board  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555
- Chairman, Atomic Safety and  
Licensing Board Panel  
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- \* Dr. Walter H. Jordan  
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- \*\* Lucinda Minton, Esq.  
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- \* Dr. Kenneth A. McCollom  
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\_\_\_\_\_  
Nicholas S. Reynolds

cc: Homer C. Schmidt  
Spencer C. Relyea, Esq.