

3/29/83

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

03 APR -1 P2:47

In the Matter of

APPLICATION OF TEXAS UTILITIES
GENERATING COMPANY, ET AL., FOR
AN OPERATING LICENSE FOR
COMANCHE PEAK STEAM ELECTRIC
STATION UNITS #1 AND #2
(CPSSES)

Docket Nos. 50-445
and 50-446

CASE'S MOTION TO ALLOW
WITNESSES REGARDING NRC'S
INVESTIGATION OF ALLEGATIONS
OF WHISTLEBLOWERS

CASE (Citizens Association for Sound Energy), Intervenor herein, hereby files this, its Motion to Allow Witnesses Regarding NRC's Investigation of Allegations of Whistleblowers.

In the Board's March 9, 1983 Memorandum and Order (Memorializing Conference Call) (page 2), the Board stated:

"Insofar as questions have arisen concerning the nature, scope, and competence of NRC investigations and the validity of their conclusions, these matters will be addressed through the Board witnesses. The parties may also question these witnesses. In addition, the parties may present their own witnesses on these matters if a showing is made that the witnesses will present material testimony which is cognizable in this proceeding."

CASE wishes to call the following witnesses in this matter. As the Board directed, we are including a brief statement regarding their testimony and its significance to this proceeding.

1. Dennis Culton -- Is expected to testify regarding his dealings with the NRC investigators following his limited appearance statement in the operating license hearings in September 1982. He will discuss, for example, the 11/8/82 interview at the NRC Region IV offices between him and NRC investigators, at which CASE representative Juanita Ellis

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was present. (See CASE's 12/21/82 Brief in Opposition to the NRC Staff's Exceptions to the Atomic Safety and Licensing Board's Order Denying Reconsideration of September 30, 1982, Attachment 10, for rough transcript of that meeting typed by Mrs. Ellis from a tape-recording of the meeting.) He will also discuss the attitude of the NRC investigators and his feelings following the meeting with the NRC. (See CASE's 12/21/82 Brief for statements relayed by phone from Mr. Culton to Mrs. Ellis; this is Attachment 11 to the 12/21/82 Brief.)

Mr. Culton's testimony is vitally important to the issues being litigated in regarding to the NRC's investigation of allegations by whistleblowers. As indicated in Attachments 10 and 11 of CASE's 12/21/82 Brief (which Mr. Culton will authenticate as to substance in his testimony), Mr. Culton felt that he was being badgered, that the NRC investigators were attempting to intimidate and discredit him, and that they weren't really interested in investigating allegations. He was not at all satisfied with their manner of investigating. CASE believes that Mr. Culton is representative of a major problem with NRC investigations by Region IV.

2. Roy Combs -- Is expected to testify regarding his dealings with the NRC investigators in response to the allegations of Henry and Darlene Stiner, about which the NRC contacted him. He will also testify about the aftermath of that investigation. (See CASE's 1/11/83 Argument on Issues, Attachments 5 and 6, for affidavits.) He will also testify regarding the NRC's handling of the investigation into his concerns as stated in his affidavits and the attitude of the NRC regarding that investigation. (See CASE's 2/21/83 Motions to (1) Respond to Applicants' Charges of Misconduct by CASE; (2) Strike Applicants' February 8, 1983 Answer to CASE Motion (and Supplement) for Protective Orders; and (3) Impose Sanctions Against Applicants, Attachment 1 -- stricken by Board's Memorandum and Order of March 1, 1983.) Also re: posting of NRC Form 3.
3. Robert L. Messerly -- Is expected to testify regarding his 2/3/83 Affidavit (attached to Supplement to CASE's Motion for Protective Orders for Roy Combs, Lester Smith, and Freddy Ray Harrell -- stricken by Board's Memorandum and Order of March 1, 1983), and the fact that, although the concerns expressed in that Affidavit were very serious, and although the NRC Region IV office and other NRC representatives received copies of it, he was never contacted by the NRC regarding it.
4. Lester Smith -- Is expected to testify regarding his 1/23/83 Affidavit (attached to CASE's 1/24/83 Motion for Protective Orders for Roy Combs, Lester Smith, and Freddy Ray Harrell -- stricken by Board's Memorandum and Order of March 1, 1983), and the fact that, although his concerns included violation of QC requirements and are potentially significant to these proceedings and although the NRC Region IV office and other NRC representatives received copies of it, he was never contacted by the NRC regarding it and the NRC was not present when he was interrogated by Applicants on 2/1/83. Also re: posting of NRC Form 3.

The testimony of these four individuals is expected to be rather brief. However, their testimony goes to the very heart of the problem with the NRC Region IV investigations into allegations of whistleblowers, the perception of the NRC and its attitude toward whistleblowers by potential and current whistleblowers, and the ability and/or willingness of the NRC to investigate allegations of whistleblowers.

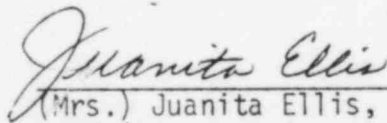
As the Board stated in its March 4 Notice of Resumed Evidentiary Hearing (page 4):

"Public confidence in the ability and willingness of NRC to investigate QC allegations by 'whistleblowers' is very important to perceptions of the integrity of our adjudicatory process."

The testimony of these four proposed witnesses will assist the Board in its desire to evaluate the quality of such investigations and the validity of their conclusions. At the same time, very little additional hearing time will be required to help complete the record in this regard.

We therefore move that the Board grant CASE's Motion to Allow Witnesses Regarding NRC's Investigation of Allegations of Whistleblowers.

Respectfully submitted,



(Mrs.) Juanita Ellis, President
CASE (Citizens Association for Sound Energy)
1426 S. Polk
Dallas, Texas 75224
214/946-9446

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NUCLEAR REGULATORY COMMISSION

DOCKETED

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RECORDED

Docket Nos. 50-445
and 50-446

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of
CASE'S MOTION TO ALLOW WITNESSES REGARDING NRC'S INVESTIGATION OF ALLEGATIONS
OF WHISTLEBLOWERS

have been sent to the names listed below this 29th day of March, 1983,
by: Express Mail where indicated by * and First Class Mail elsewhere.

- | | |
|---|---|
| * Administrative Judge Marshall E. Miller
U. S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board
Washington, D. C. 20555 | Alan S. Rosenthal, Esq., Chairman
Atomic Safety and Licensing Appeal Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555 |
| * Dr. Kenneth A. McCollom, Dean
Division of Engineering,
Architecture and Technology
Oklahoma State University
Stillwater, Oklahoma 74074 | Dr. W. Reed Johnson, Member
Atomic Safety and Licensing Appeal Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555 |
| * Dr. Walter H. Jordan
881 W. Outer Drive
Oak Ridge, Tennessee 37830 | Thomas S. Moore, Esq., Member
Atomic Safety and Licensing Appeal Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555 |
| * Nicholas S. Reynolds, Esq.
Debevoise & Liberman
1200 - 17th St., N. W.
Washington, D. C. 20036 | Atomic Safety and Licensing Appeal Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555 |
| * Marjorie Ulman Rothschild, Esq.
Office of Executive Legal Director
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555 | 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 | * Ms. Lucinda Minton, Law Clerk
Atomic Safety and Licensing Board Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555 |

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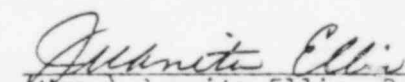
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Stillwater, Oklahoma 74074 | Dr. W. Reed Johnson, Member
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Oak Ridge, Tennessee 37830 | Thomas S. Moore, Esq., Member
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U. S. Nuclear Regulatory Commission
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Debevoise & Liberman
1200 - 17th St., N. W.
Washington, D. C. 20036 | Atomic Safety and Licensing Appeal Panel
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Washington, D. C. 20555 |
| * Marjorie Ulman Rothschild, Esq.
Office of Executive Legal Director
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U. S. Nuclear Regulatory Commission
Washington, D. C. 20555 |
| Atomic Safety and Licensing Board
Panel
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555 | * Ms. Lucinda Minton, Law Clerk
Atomic Safety and Licensing Board Panel
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, Texas 78711

John Collins
Regional Administrator, Region IV
U. S. Nuclear Regulatory Commission
611 Ryan Plaza Dr., Suite 1000
Arlington, Texas 76011

Mr. R. J. Gary
Executive Vice President and
General Manager
Texas Utilities Generating Company
2001 Bryan Tower
Dallas, Texas 75201

Lanny Alan Sinkin
838 East Magnolia Avenue
San Antonio, Texas 78212


(Mrs.) Juanita Ellis, President
CASE (Citizens Association for Sound Energy)
1426 S. Polk
Dallas, Texas 75224
214/946-9446