2/10/84

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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 (CPSES)

Docket Nos. 50-445
and 50-446

CASE'S MOTION FOR EXTENSION OF TIME
TO ANSWER APPLICANTS' PLAN TO RESPOND TO
MEMORANDUM AND ORDER (QUALITY ASSURANCE FOR DESIGN)

On 2/3/84, Applicants filed their Plan to Respond to Memorandum and Order (Quality Assurance for Design). As stated in footnote 1 of that pleading, "On January 25, 1984, the Board Chairman granted Applicants' request for an additional week (to February 3, 1984) to file this Plan." Applicants made their request without prior consultation or discussion with Intervenor CASE. The Board granted Applicants' motion.

Had the original schedule applied, CASE would have had to respond to Applicants' Plan by February 16. However, since Applicants received an additional week's delay, the date CASE would have to respond is now February 23. As the Board is aware, this is during scheduled hearings in these proceedings February 20-24, which effectively robs CASE of almost a working week of response preparation time. CASE therefore moves that the Board grant CASE an additional week in which to respond to Applicants' pleading. Further, since CASE did not receive Applicants' pleading until Monday, 2/6/84, we ask that the Board extend the response time to 3/5/84, to recognize the three-day loss due to mailing; this would place the time for CASE to answer Applicants' pleading at March 5, 1984.

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CASE further moves that the Board in the future, rather than setting dates to be dependent upon a certain number of days from the time of the filing of a pleading, be set by a date certain to avoid confusion and late filing such as has occurred recently. This has just occurred in regards to a very important pleading, the prefiled direct testimony of Applicants' and NRC Staff's witnesses for the February 20-24 hearings. CASE worked diligently, under very adverse health conditions, to prepare and file our witnesses' testimony as instructed by the Board in its 12/28/83 Memorandum and Order (Scheduling Matters):

> "Parties shall file written direct testimony so that it is received by the other parties and the Board no later than 12 days prior to the scheduled commencement of the hearing session at which the testimony will be presented." (Emphases added.)

CASE filed its testimony for the February 20 hearings so that it would be received on February 8, twelve days prior to the start of hearings, as the Board instructed. However, the Applicants and NRC Staff did not mail their testimony until February 8, which meant that CASE did not receive their testimony until February 9, one day late. The unfairness of this is obvious: This would have allowed both Applicants and NRC Staff to have an additional day which CASE did not have in which to prepare testimony. And this extra day would have allowed Applicants and Staff to respond to points in CASE's pleading to which they should not have had access until their testimony was already mailed. CASE therefore believes it is necessary that the Board clarify to the parties prior to deadlines the specific date on which pleadings are to be mailed by overnight delivery.

Respectfully submitted,

Juanita Ellis

(Mrs.) Juanita Ellis, President
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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of CASE's PARTIAL ANSWER TO APPLICANTS' PLAN TO RESPOND TO MEMORANDUM AND ORDER (QUALITY ASSURANCE FOR DESIGN) and CASE'S MOTION FOR EXTENSION OF TIME TO ANSWER APPLICANTS' PLAN TO RESPOND TO MEMORANDUM AND ORDER (QUALITY ASSURANCE FOR DESIGN)

have been sent to the names listed below this 10th day of February, 1984, by: Express Mail where indicated by * and First Class Mail elsewhere.

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