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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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USNRC

COMMISSIONERS:

'92 APR -7 P3:23

- Ivan Selin, Chairman
- Kenneth C. Rogers
- James R. Curtiss
- Forrest J. Remick
- E. Gail de Planque

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In The Matter of:

TEXAS UTILITIES ELECTRIC COMPANY

(Comanche Peak Steam Electric  
Station, Units 1 and 2)

Docket Nos. 50-445-OL  
50-446-OL  
50-445-CPA

APPLICATION TO THE SECRETARY FOR HEARINGS  
AND ORAL ARGUMENT IN SUPPORT OF MOTION FOR LEAVE  
TO INTERVENE OUT-OF-TIME AND MOTION TO REOPEN THE RECORD  
SUBMITTED BY SANDRA LONG DOW dba DISPOSABLE WORKERS  
OF COMANCHE PEAK STEAM ELECTRIC STATION AND R. MICKY DOW

TO THE SECRETARY OF THE U.S. NUCLEAR REGULATORY COMMISSION:

Comes now Sandra Long Dow dba Disposable Workers of Comanche Peak Steam Electric Station, and R. Micky Dow, and file this, their Application To The Secretary For Hearings And Oral Argument In Support Of Motion For Leave To Intervene Out-Of-Time and Motion To Reopen The Record Submitted By Sandra Long Dow dba Disposable Workers Of Comanche Peak Steam Electric Station, And R. Micky Dow, and for cause would show, that,

BASIS FOR MOTION

Applicants currently have pending before the Commission their Motion For Leave To Intervene Out-of-Time, and their Motion To Reopen The Record, with regard to the above-styled and numbered matter.

10 C.F.R. §2.772 states, in part "When briefs, motions or other papers . . . are submitted to the Commission itself, . . . the Secre-

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tary . . . [is] authorized to . . . (j) Refer to the Atomic Safety and Licensing Board Panel . . . requests for hearings not falling under §2.104 of this part, where the requester is entitled to further proceedings. . . ."; and the only part of §2.104 which is applicable in this case would be (a) In the case of an application . . . which the Commission finds that a hearing is required in the public interest. . . .", which places the power to grant hearings, for almost any manner of application, motion, and/or appeal, squarely in the hands of the Commission, and, in this case, the Secretary, directly.

More importantly, 10 C.F.R. §2.763 shows that "In its discretion the Commission may allow oral argument upon the request of a party made in a notice of appeal or brief, or upon its own initiative.", and while, specifically, these are motions, and not notices of appeal, or briefs, it would seem to be obvious that the pleadings presently before the Commission are, at least, or could be viewed, at the discretion of the Commission, as appeals of earlier attempts at the same process with the same goal in mind. That it would be in the best interest of the public to hold oral argument is self-evident.

#### ARGUMENTS

##### 1. Responsive Pleadings To Motion Wrought With Inaccuracies.

There have been two responsive pleadings, the first by the licensee, and the second by the "staff", to the pleadings of these applicants. They are both ambiguous and convoluted, to the point of being ludicrous. They fail, completely, to address the actual situation at hand, and stray into areas of vagueness and incongruency; are rife with material false statements, and some areas that border if not completely encompass perjury.

The Secretary is respectfully reminded to review the previous motion filed by these applicants to reopen the record, and the "staff's" response to it. The licensee's position was completely rejected by the "staff", and, more importantly, the "quasi" attempt at intervention by Juanita Ellis, and her organization Citizens Association For Sound Energy, was a poorly covered attempt to try other matters before the Commission, and determined to be immaterial to the matter at hand.

The responsive pleading filed by the licensee can be summed up in much the same manner as the intervention of C.A.S.E., in that what the licensee is basically saying is "Come On, We told you guys everything was o.k. at Comanche Peak, Disposable Workers and Micky Dow are picking on us, make them leave us alone!", and the questions the Commission should be asking itself is that, if this were, in fact, true; then why do Disposable Workers, and Micky Dow, keep coming back, with more extensive pleadings, more substantiation, more witnesses, and yet their direction has never changed? Why, why, does the licensee, and the "staff" not want the record reopened, why do they not want this matter reexamined?

## 2. Credability Challenged Of Witnesses Whose Credability Is Established.

If it is true that the testimony of Dobie Hatley, Ron Jones, and others is too old. If it is true that everything they **might** conceivably testify to has already been identified and corrected--then why, WHY were each of these individuals, and several others, who will also come forward, paid sums of approximately FIVE HUNDRED THOUSAND DOLLARS APIECE, NOT FOR THEIR PAIN AND SUFFERING, NOT FOR THE END OF THEIR CAREERS, NOT FOR THE END OF THEIR LIVES, AS THEY KNEW THEM, **BUT SPECIFICALLY NOT TO TESTIFY, NOW OR EVER, BEFORE THE ASLB OR ANY OTHER COURT,**

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NOT TO EVER INITIATE ANY LITIGATION, AND NOT TO ASSIST IN ANY MANNER OF LITIGATION, AND MOST IMPORTANT OF ALL, IF THEY WERE EVER REQUESTED TO DO SO, TO IMMEDIATELY NOTIFY BROWN & ROOT AND/OR TU ELECTRIC, AND TO RESIST ANY MANNER OF SUBPOENA?

3. WHAT ABOUT DOW SUBPOENA, AND WHY WAS WILKINSON FIRED.

Both the licensee and the "staff" argue that the "staff" has come to the conclusion that applicant Micky Dow does not have any material of consequence based on a letter written to him by Chairman Selin, yet they fail to set out how they reached that conclusion without examining any evidence. The "staff" issued a subpoena duces tecum, served it in the middle of the night, threatened enforcement proceedings which would mean financial penalty, jail, or both, attempted to negotiate financial agreements to pay for the transcriptions of 16 reels of audio tape; and, yet, when applicant Micky Dow steadfastly refused to turn the materials over carte blanche, but agreed to surrender them if he was present during the transcription process, the staff suddenly, without any manner of support for their move, announced that because Mr. Dow would not carte blanche release his materials it was therefore determined that he had none and the subpoena was dropped, yet Mr. Stephen Comley had been fined several hundred thousand dollars, is now facing enforcement proceedings which will jail him, for **only alleging that he MIGHT** have some tape recordings; and, even yet more curious, Yvonne Wilkinson was threatened with termination at CPSSES if she did not turn these same tapes over to the applicant, and when she said she could not as they were in the possession of Mr. Dow, SHE WAS TERMINATED FOR THEFT of those tapes, yet the licensee has never filed a theft report with any law enforcement agency, nor have they contested APPLICATION TO THE SECRETARY FOR HEARINGS. . . . -4-

the unemployment claim of Mrs. Wilkinson, and continue to bar her from seeking employment at CPSES because of a theft she never committed.

This one item, alone, is sufficient to cause a reasonable doubt as to the viability, the accuracy, and the overall honesty of not only the prior proceedings, but the attempts to deny the current motions.

**5. The Public Has A Definite Interest In Holding Hearings.**

The entire Comanche Peak affair has gone on entirely too long, and still holds many unanswered questions. The press and varied media coverage still continues, still in the same doubtful, questioning vein, and the public still continues to ask questions about the safety of this facility. By holding hearings, creating a record, allowing testimony, on the viability of applicants' motion to reopen this record, these matters could be laid to rest once and for all.

**CONCLUSIONS**

The record of this affair is one of the longest in the history of this industry, and allegations of unsafe conditions, improprieties, untruths, mismanagement, and imminent disaster still prevail. People who have been silent for a period, in some cases, of ten years or more out of fear for their lives and the safety of thier families and future, that were denied the opportunity to testify at the first hearings, and still believe this plant to be unsafe, are now prepared to come forward and give that testimony.

For the Commission to vote on the present pleadings before it would constitute the biggest miscarriage of justice in the history of this Commission. To allow two pleadings that are designed to misdirect the attention of this Commission with their material false statements and poorly misdirected reasonings is a travesty.



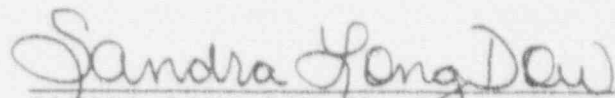
Applicants, herein, could easily move for the opportunity to respond to these answers in writing, but that attempt would also be ludicrous in that it would only serve to pile yet more paperwork into the files of this matter and confuse the Commission yet further.

To provide an open forum, with the ability to call and question witnesses will preclude further inundation of this record. Material false statements cannot survive in the open forum, neither will perjury when the oath is taken. Litigants cannot stray from the issues when there is an immediate ruling available from those presiding.

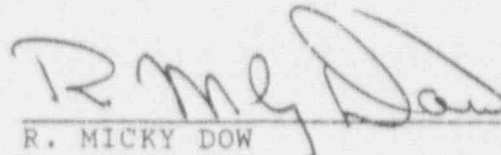
Most importantly, this motion will succeed or fail upon the direct presentation of the litigants, in full view of the public and the record, and the ghosts of the past will be determined to be just that, ghosts, or spectres of the future.

WHEREFORE, PREMISES CONSIDERED, in the interests of justice, and, in the interests of the public welfare and knowledge, these applicants formally request the Secretary grant them hearings on their Motion For Leave To Intervene Out-Of-Time, and their Motion To Reopen The Record, allowing them to argue their motion before the Atomic Safety Licensing Board, and for such other and further relief to which they may show themselves to be justly entitled.

Respectfully submitted,



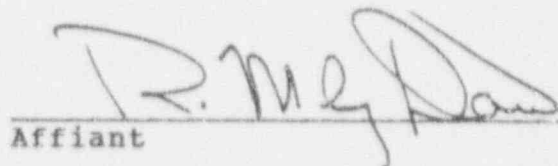
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**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing was sent to all parties to this action listed below, by courier, on this the 6th day of April, 1992.

  
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