



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

MAY 31 1984

Docket No.: 50-445

Mr. L. L. Kammerzell  
Vice President  
CYGNA Energy Services  
Suite 1000  
San Francisco, CA 94111

Mr. M. D. Spence, President  
Texas Utilities Electric Company  
400 N. Olive St., L.B. 81  
Dallas, TX 75201

Dear Messrs. Kammerzell and Spence:

Subject: INDEPENDENT ASSESSMENT PROGRAM (IAP) PERFORMED BY CYGNA

By my letter to you dated March 22, 1984, I requested CYGNA's and Texas Utilities' comments on and assessments of two questions concerning the adequacy of the independence maintained by CYGNA during its review conducted for the Independent Assessment Program on Comanche Peak. CYGNA responded by a letter signed by Mr. M. N. Shulman, Manager, Western Region, dated April 10, 1984. Texas Utilities responded by a letter signed by Mr. H. C. Schmidt dated April 18, 1984. Both of these letters urged that the "Protocol Governing Communications between TUGCO and CYGNA," an enclosure to my letter dated September 23, 1983, be clarified to address more clearly the procedures for communications between CYGNA and TUGCO. This matter was also discussed with CYGNA at its meeting with the staff on April 17, 1984.

After reviewing the above letters and discussions, we have prepared a new statement of protocol which more completely addresses the variety of communications that occur during the course of an independent review. See Enclosure.

With respect to the independent assessment work carried out in response to the request of the NRC Staff, we believe that the remaining effort is in the "Discussion of Evaluation, Observations, and Findings" stage, rather than the Information Gathering" stage. Accordingly, the portion of the protocol relating to discussion of evaluation, observations or findings should be followed, including the notes relating to contested cases.

Should the NRC Staff choose to require additional independent review work, it would require that the full protocol be followed including the notes for contested cases in which expedited effort is necessary, unless other provisions are required by the Atomic Safety and Licensing Board.

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With respect to work that CYGNA may do in connection with the Applicant's Plan to Response to Memorandum and Order (Quality Assurance for Design), as supplemented, CYGNA should follow such protocol as may be established by the Atomic Safety and Licensing Board. The Licensing Board has commented on the protocols to be followed in this connection. (Tr. 13117-13123.)

Sincerely,

*Thomas M. Novak*

**ORIGINAL SIGNED BY:**

*for*

Darrell G. Eisenhut, Director  
Division of Licensing  
Office of Nuclear Reactor Regulation

Enclosure:  
As stated

cc: See next page

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COMANCHE PEAK

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Enclosure

PROTOCOL GOVERNING COMMUNICATIONS  
FOR INDEPENDENT REVIEW PROGRAMS

PURPOSE

The purpose of an independent review is to obtain the independent technical assessment of the independent reviewer with respect to the subjects covered by the independent review program. In this connection every reasonable effort should be directed toward assuring that the observations and conclusions of the independent reviewer are the result of its own independent technical assessment and not influenced or biased by representations of other parties such as the applicant, its employees or contractors, NRC staff members, or other persons associated with ongoing licensing proceedings. Thus, any factual information obtained from others not independently verified by the independent reviewer should be carefully documented and specifically identified as such. In addition, to the extent that the independent reviewer is attempting to ascertain actual design or construction practices, such as control, distribution and use of documentation, the independent reviewer should be careful not to affect these practices by pre-notification or otherwise.

The following guidelines are intended to accommodate the need to assure independence of the independent reviewer on the one hand, and, on the other hand, the legitimate need to assure an adequate efficient method for the independent reviewer to obtain information and for communication between the independent reviewer and the applicant and other parties. However, it is the responsibility of the independent reviewer to assure that these guidelines are implemented in a manner which assures an adequate independent review.

INFORMATION GATHERING

In obtaining initial information necessary to commence its review or carry out a specific review task, the independent reviewer has a clear need for prompt access to any data required to fulfill its independent review function. Although such communication should ordinarily be by written requests and written responses, this may not be efficient in all instances and the independent reviewer may initiate such communications with the applicant (or its contractors) as it deems necessary to facilitate the collection or clarification of information. Hand written requests for documents, telephone conversations, face-to-face discussions, and meetings and visits to the site and offices of the applicant (and its contractors) may be utilized by the independent reviewer to obtain necessary information. All such requests for information and responses thereto shall be documented, but documentation may follow a request or exchange of information otherwise made, provided it is done promptly. If the applicant seeks to obtain simple clarification (e.g., clarification of

illegible documents or typographical, clerical or similar questions) of information requested by the independent reviewer to provide the independent reviewer simple clarification or simple correction of information previously provided, such communication may be informal. However, such communication should be promptly documented thereafter.

Correspondence and other documentation of information exchanged between the independent reviewer and the applicant during the information gathering stage, will be kept on file until issuance of the full power license and completion of all proceeding relating to the issuance of the full power license, and this file shall be accessible to the NRC.\*

#### DISCUSSION OF EVALUATION, OBSERVATIONS OR FINDINGS

##### At Request of Independent Reviewer

When the independent reviewer determines that it is necessary or desirable to have a substantive communication with the applicant (or its contractors) regarding its evaluation of information, observations or findings of its review, such communication should ordinarily be by letter or by meeting but it may also be accomplished by telephone. If by telephone, a representative of the Division of Licensing shall be notified, in advance if practicable, and have the option of being included as a third party.\*\* In addition, a brief written summary should be prepared by the independent reviewer and sent to the Director, NRC Division of Licensing,\*\*\* describing in sufficiently comprehensive form, the nature and content of the communication. If by letter, the Director of Licensing,\*\*\* should be provided a copy. Any exchange of drafts of letters or documents shall be treated in the same manner.

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\*/ In contested cases (in which the independent review may be relevant to matters in issue) the presiding Atomic Safety and Licensing Board may require exchange of such information with other parties or access to such information to other parties. In addition in some cases, including contested cases, where it is important to expedite NRC staff review, and any potential litigation involving the independent review program, arrangements should be provided to expedite access to such documentation to NRC and other parties and to provide for communication by meeting with all parties present or telephone conference with the opportunity for all parties to be joined.

\*\*/ In contested cases the independent reviewer shall also offer the opportunity to participate to all parties to the proceeding, with notice in advance if practicable.

\*\*\*/ In contested cases copies of correspondence and notices should be provided to all parties to the proceeding.

If such communication is by meeting,\* all parties should be provided the opportunity to participate. The independent reviewer should provide as much advance notice to the Division of Licensing\*\* as can be given consistent with its need to perform the review in a timely fashion; no express amount of advance notice is required and the inability of any other participant to attend such meeting is not a basis for delay. Nonetheless, a good faith effort should be made to provide notice and accommodate all participants. If the independent reviewer is unable to provide five days advance notice by mail, it will notify the Division of Licensing and the representatives of other parties, by phone. The Division of Licensing may request that the meeting be transcribed. Unless transcribed, the information obtained at meetings should be documented.

#### At Request of Applicant

The applicant has a significant need for timely access to the results of the program. To the extent the applicant desires communications with the independent reviewer beyond that described above and beyond simple clarification of information provided by the independent reviewer, the applicant should accomplish such communication either in writing or by arranging a meeting with the independent reviewer.\*\* The independent reviewers' response to a written request for information should be in writing.\*\*\* If a meeting is requested by the applicant, the independent reviewer should, if it determines such meeting to be warranted, follow the arrangements discussed above. If the applicant seeks simple clarification of information provided by the independent reviewer (e.g., clarification of illegible materials or typographical, or similar clerical questions), such communication may be informal. However, such communication should be documented promptly thereafter.\*\*

#### At Request of Other Parties

To the extent that any other party to the licensing proceeding may desire to have communications with the independent reviewer for the purpose of obtaining clarification of the independent reviewer's findings or observations or the basis therefor, the same procedure described above with respect to the applicant will be followed. In any event, the determination as to whether to hold a meeting with either the applicant or the intervenors will be within the independent reviewers sole discretion. To facilitate resolution of requests for clarification, the independent reviewer should identify a single point of contact (with a backup) with whom all participants can communicate either by phone or in writing.

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\*/ For meetings held during site visits, opportunity to participate in the site visit should be provided. Separate notice and opportunity to participate should be provided for meetings occurring during the site visit involving discussions of CYGNA findings or observations.

\*\*/ In contested cases copies of correspondence and notices should be provided to all parties to the proceeding.

NRC STAFF COMMUNICATIONS WITH INDEPENDENT REVIEWER

The NRC Staff may require direct access to the independent reviewer. Ordinarily such staff communications with the independent reviewer will be by meeting with notice to all parties, by letter with copies to all parties or by telephone conference call with opportunity for all parties to be joined. In any instance of telephone call to the independent reviewer or meeting with the independent reviewer to discuss the independent review for which the staff does not give prior notice to the parties, the staff will prepare a brief written summary describing the nature and content of the communication. A copy of such summary will be provided to all parties.

Meetings between the staff and the independent reviewer regarding substantive findings will follow the staff's general meeting policy with as much advance notice as can be provided consistent with the staff's need to conduct its review on a timely basis.

FINANCIAL OR ADMINISTRATIVE MATTERS

Communications between the applicant and the independent reviewer solely with respect to the financial and administrative aspects of the independent reviewer contract are outside the scope of this protocol.