

TEXAS UTILITIES GENERATING COMPANY

SKYWAY TOWER • 400 NORTH OLIVE STREET, L.B. 81 • DALLAS, TEXAS 75201

MICHAEL D. SPENCE  
PRESIDENT

June 15, 1984

50-445

Mrs. Juanita Ellis  
Citizens Association for Sound Energy  
1426 South Polk  
Dallas, Texas 75224

Mrs. Ellis:

I have your two letters of June 7, 1984, and will respond to them together. The tone and substance of your letters make it obvious that we are indeed a "long way from being in agreement . . ."

I feel I must first respond to your continued "lack of trust" arguments. It seems that anything we do which you do not agree with automatically brings our integrity into issue in your mind. A good example of this is the first "barrier" to settlement which you refer to numerous times in both letters and which relates to the use of our property. It should go without saying that TUGCO is part of an investor-owned corporation and as such enjoys rights of privacy and has accumulated and owns valuable information relating to its business. Being regulated, it is proper that records and data essential to fair regulation be made available for use in that process and you have received virtually unlimited discovery of such information in several forums. In the current rate case, you and many other intervenors have requested and received information relating to the names and addresses of customers, gas purchase and construction contracts, salaries of employees, corporate planning documents, earnings forecasts, and other information proprietary in nature. Our responses stack almost eleven feet high. Since much of the data contains proprietary information which belongs to the Company, we chose in the rate case to put all parties (not just CASE) on notice that we do not make a general publication of information by the responses that we give and that any use of the information other than in the rate case would be without our permission. No threat of suit against CASE or anyone else has been made in this matter. I have personally reviewed the transcript of the hearing before the PUC to confirm this fact. Your reliance on the private opinions of a PUC employee and a newspaper reporter is inappropriate.

Contrary to the statement in your letter, the PUC did not decline to rule on this issue. Rather, the use of information clause was allowed to remain in the responses with the recognition that TU had "stated a right that it's entitled to under the law." Further, the Examiner disagreed that such clause constituted harassment, and in the written order found that it did not, and questioned whether the allegation was even a serious one. While it is obvious that you do not agree with the PUC Examiner, I fail to see how the exercise of our rights against unauthorized uses of our property has anything to do with the settlement of these issues or with either "trust" or "harassment."

8406210355 840615  
PDR ADOCK 05000445  
H PDR

13001  
1/0

Mrs. Juanita Ellis  
June 15, 1984  
Page Two

Last fall, in the last rate case where CASE was involved, you asked for substantial information which we believed had nothing to do with the rate case but was being sought there for use before the ASLB. Our suspicions were confirmed when you in fact sought to add a new contention to the licensing hearings based upon rate case information. It was our position then and is now that basic fairness should not permit our Company to be whip-sawed simply because we are subject to more than one regulatory process. If information is needed to aid in your participation in the ASLB hearings, that is where it should be sought and the reasonable rules of practice, applicable to both of us, should be complied with accordingly. In the current rate case, you have asked page upon page of questions (to which we have responded) relating to Comanche Peak, including information regarding allegations of harassment of Dobie Hatley, information on rosebud heaters, pencil grinders, weld rods and rod cans, and numerous other questions of similar nature. Your representative told us several times that you planned to use such information in the rate case. However, your letter makes it clear that you really intend to use this information before the ASLB. Also, although the due date is now passed, CASE has submitted no witness on any of these issues for consideration by the PUC. Under these circumstances, it is hard for me to understand how we could be accused of mistrust.

Concerning a "threat of suit" if you disclose information to the Licensing Board, let me respond. First, no such threat has been or is being made. Second, we, as you have acknowledged, also have a duty to disclose to the Board safety matters related to the issues in controversy and have done so. We will continue to do so and encourage you to cooperate with us in that effort. Third, should you have information of safety concern that is not related to issues in controversy, I ask that you bring it to my personal attention and in all probability we would agree to release it to the NRC Staff. Finally, even if we can't agree on disclosure, proper avenues exist for you to bring the general subject matter of your concern to the attention of the NRC Staff or Judge Bloch, as appropriate, and obtain an appropriate resolution. This is all I intend to say on this subject. Your request for "sworn affidavits of the Chairman of the Board and Chief Executive Officer of Texas Utilities Electric Company" is insulting and will not be forthcoming.

Concerning the other "barriers," I am told that the "For Lawyers Attention Only" stamp doesn't even belong to TUGCO and was used internally by one of our consultants in preparing preliminary drafts for discussions with the attorneys. It does not restrict your use at all and certainly was never intended to be a restriction on CASE's use of documents received in discovery. I will not respond to your complaints of lack of full disclosure in these hearings (the lawyers can do this) except to say that after review, I can't agree at all with your conclusions.

Mrs. Ellis, I regret that you still have not responded substantively on the merits to our proposals. Despite significant concessions conveyed to you in my letter of June 1, which followed our face-to-face meeting, I can see no move whatever by CASE toward conciliation. Several of your comments are prefaced by remarks that your position remains "non-negotiable." We still have not been given

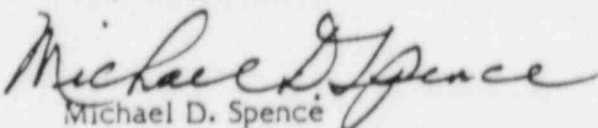
Mrs. Juanita Ellis  
June 15, 1984  
Page Three

one single item that you believe should receive corrective action, although I have personally told you that we will seriously consider such matters in further settlement negotiations. We still await "additional information" on a substitute for the component cooling water system for Cygna's Phase IV effort even though we have told you that Phase IV is already fully underway and the work is ongoing at this time. You still appear unwilling to accept Cygna as an independent reviewer to determine existing problems and their safety impact even though their independence, qualifications, and integrity have been shown to the satisfaction of the Board and even though we have agreed to the full involvement of Dr. Bjorkman, Messrs. Walsh and Doyle, and of course, the NRC Staff. Finally and most importantly, you still insist on a full reinvolvement at some later stage (even if it interferes with the timely licensing of the plant) by the Board with the only condition on their involvement being that CASE still has concerns that something is "wrong" even though no one else does.

This last matter, in particular, appears to make further discussion difficult at best. In the final analysis, you regrettably express no trust or confidence in me, in TUGCO, in any of our attorneys, in the NRC Staff, in the NRC Task Force, in Region IV, or in Cygna. I frankly don't see how we can resolve these matters, short of hearings and a final Board order, unless and until you are willing to accept the integrity and good faith of at least one and hopefully more of these participants and I encourage you to reconsider your position in this regard.

Hopefully this letter will serve to at least explain the reasons for our actions, whether or not you may agree with them, and thus to lower the "barriers." The licensing and operation of this plant is too important for either of us to close any doors. We look forward to a definitive settlement proposal from you.

Very truly yours,

  
Michael D. Spence

MDS/lm

cc: Mr. John T. Collins  
Mr. T. A. Ippolito ✓