

# ORIGINAL

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of:

TEXAS UTILITIES ELECTRIC  
COMPANY, et al

Docket No. 50-445-2  
50-446-2

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

TELEPHONE CONFERENCE

Location: Glen Rose, Texas

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY & LICENSING BOARD

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 In the matter of: :  
 :  
 TEXAS UTILITIES ELECTRIC :  
 COMPANY, et al. : Docket Nos. 50-445  
 : 50-446  
 (Comanche Peak Steam Electric :  
 Station, Units 1 and 2) :  
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Room 38  
Glen Rose Motor Inn  
Glen Rose, Texas

August 2, 1984

TELEPHONE CONFERENCE

Before: Judge Peter Bloch and Judge Grossman  
reported by Glenna M. Wright, Court Reporter, beginning  
at 8:53 a.m., pursuant to agreement.

DAVID L. BRASSER, ATTORNEY AT LAW  
 247 GASTON

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## 1 APPEARANCES:

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20 \* \* \*

P R O C E E D I N G S

8:53 a.m.

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2  
3 JUDGE BLOCH: This is Peter Bloch, Chairman  
4 of the Licensing Board for the Comanche Peak Steam Electric  
5 Station, Units 1 and 2, operating license case, Docket  
6 Nos. 50-445-2 and 50-446-2.

7 With me is Judge Grossman and Allen Ginsberg,  
8 our law clerk.

9 We have identified the parties for the  
10 record previously, so let's begin with the substance of  
11 this call.

12 Who has requested the call be convened?

13 MR. WATKINS: Applicants, Your Honor.

14 This is Mr. Watkins.

15 JUDGE BLOCH: Please proceed.

16 MR. WATKINS: We have several motions  
17 regarding the testimony of a witness whose direct case  
18 we heard yesterday. The witness is an Intervenor witness,  
19 Sue Ann Neumeyer.

20 We would like to begin by moving to strike  
21 her testimony in its entirety.

22 Ms. Neumeyer presented testimony as to  
23 two incidents. One, at some time in the first half of  
24 1933 -- We haven't been able to determine when --  
25 Ms. Neumeyer testified that she was asked by her QA/QC



1 supervisor -- She was at the time a level two QC inspector.  
2 She was asked by her supervisors to prepare certain documenta-  
3 tion. They were travellers based on other documentation.  
4 That she did so, although it was against her better judgment,  
5 and that following her performance of that task, she heard  
6 from someone that she can't remember who it was who might  
7 have been in a meeting that someone had said something  
8 about her losing her job.

9 She did, however, testify that she talked  
10 with her direct supervisor about this incident and that  
11 following the conversation in which he indicated nothing  
12 of a threatening nature, that was the last she heard of  
13 it.

14 She did not testify that the incident had  
15 any effect on her job, on her performance. She did not  
16 testify that she felt in any way harassed or intimidated  
17 by the event.

18 It essentially is a technical problem,  
19 as you will learn in fuller detail in this conference.

20 The second incident about which Ms. Neumeyer  
21 testified involved her writing an NCR in late January  
22 of 1984. She believed that certain documentation that  
23 she was reviewing was not per procedure. She consulted  
24 with her supervisor, who instructed her or encouraged  
25 her to write an NCR. She did so.

1           The NCR was subsequently voided by another  
2 of her supervisors.

3           Ms. Neumeyer did not testify that that  
4 incident had any effect on her job, on the performance  
5 of her job, that she felt in any way harassed or intimidated  
6 by the event, and that is pretty much the sum and total  
7 of her testimony.

8           There was no craft involvement in either  
9 of these incidents. It was strictly an internal QA/QC  
10 matter.

11           The issues presented are largely technical  
12 in nature, and the record is utterly devoid of testimony  
13 by Ms. Neumeyer herself that in any way relates or makes  
14 her testimony relevant to the subject matter of this  
15 proceeding.

16           Now, we commenced Ms. Neumeyer's cross-  
17 examination last night. We didn't get very far. We're  
18 going to pick it up again at 6:00 this evening.

19           Thus far, the examination has been largely  
20 limited to an exploration of the technical issues and  
21 not anything having to do with harassment or intimidation  
22 about which in any event she has not testified.

23           JUDGE BLOCH: I take it the motion is being  
24 opposed, Mr. Roisman?

25           MR. ROISMAN: Yes, Mr. Chairman. Ms. Garde

1 is going to carry the laboring oar on this, and, in fact,  
2 I'm going to leave now because I have a deposition that's  
3 starting in two minutes.

4 JUDGE BLOCH: Thank you, Mr. Roisman.

5 Ms. Garde.

6 MS. GARDE: Yes. I would strongly disagree  
7 with the characterization Mr. Watkins has presented to  
8 you about Ms. Neumeyer's testimony.

9 I would -- Before I would present that  
10 argument, though, I would suggest that it would probably  
11 be more appropriate if you would be able to read Ms. Neumeyer's  
12 direct testimony when you receive the transcript and rule  
13 on the motion at that time.

14 I could go down through the incidents and  
15 would be glad to do so, sir --

16 JUDGE BLOCH: There may be disagreement over  
17 the meaning of the transcript, and we're certainly not going  
18 to rule on a motion to strike until we read the transcript.

19 MS. GARDE: Yes, sir.

20 (Pause.)

21 Judge Bloch?

22 JUDGE BLOCH: Yes, Ms. Garde.

23 MS. GARDE: What was your last comment,  
24 sir?

25 JUDGE BLOCH: Just that we would not rule

1 on a motion to strike if there's a disagreement among  
2 the lawyers about the meaning of the testimony because  
3 we would want to read it.

4 MS. GARDE: Yes, sir. Well, I would want  
5 you to do that, sir, and I would briefly respond to  
6 Mr. Watkins' characterization of the testimony by saying  
7 that --

8 JUDGE BLOCH: Before you respond, let me  
9 ask Mr. Bachmann if he has a comment on the ruling we've  
10 indicated that we are inclined to make.

11 MR. BACHMANN: Yes, Judge Bloch. I agree  
12 with you in the sense that I think this motion to strike  
13 is somewhat premature since there is disagreement amongst  
14 the parties, at least as far as CASE and the Applicant  
15 are concerned, that a motion to strike in writing based  
16 on the transcript attached would be the best way to deal  
17 with this situation.

18 JUDGE BLOCH: So I take it that the disagree-  
19 ment is over whether or not the way in which these  
20 incidents occurred constituted a form of harassment.

21 Is that what the basic disagreement is?

22 MR. BACHMANN: Well, my understanding of  
23 what Mr. Watkins said is that the testimony thus far  
24 presented by Ms. Neumeyer bears no relevance to the issue  
25 as defined by the Board, and, therefore, should not be



1 considered.

2 Evidently, Ms. Garde feels that there is  
3 definitely a relevance here to the issue as defined by  
4 the Board.

5 And I don't see that the Board can really  
6 rule on the motion to strike until it has had an opportunity  
7 to look at the transcript and perhaps in that context  
8 hear the arguments of the parties.

9 JUDGE BLOCH: My question is for Ms. Garde.

10 I just want to know if the disagreement  
11 is over whether the incidents involved were a form of  
12 harassment or intimidation.

13 (Pause.)

14 Hello.

15 MS. GARDE: Yes. I'm not sure I understand  
16 your question, Your Honor. Could you please re-ask it?

17 JUDGE BLOCH: I just want to make sure  
18 that the disagreement between the Applicant and CASE over  
19 the meaning of these incidents is really a substantive  
20 one that goes to the merits of the motion to strike.

21 Is the disagreement over whether or not  
22 the incidents already on the record constitute a form  
23 of harassment and intimidation?

24 MS. GARDE: Yes, sir.

25 JUDGE BLOCH: Okay. Is there anything

1 else, Mr. Watkins? I won't rule on that until I see it.

2 MR. WATKINS: Yes, Your Honor. There are  
3 a couple more things.

4 We would also move to strike three elements  
5 of the direct testimony presented by Ms. Neumeyer yesterday,  
6 and let me go back to a conference call that the parties  
7 had with Your Honor on July 23.

8 Ms. Neumeyer, you'll recall, was one of  
9 the witnesses for whom we had not received her Office  
10 of Investigations statement, and, in fact, I believe we  
11 only received it fairly recently.

12 It was the representation of counsel for  
13 CASE during that conference call that Intervenors had  
14 disclosed to us in excruciating detail, and I'm quoting  
15 Mr. Roisman, every element, every incident, every name,  
16 every event, every time, and every place about which  
17 Ms. Neumeyer would testify.

18 Yesterday, during her direct examination,  
19 she was asked and testified as to -- over objection --  
20 as to three incidents. First of all, a conversation that  
21 she had had with a QC lead. Secondly, a conversation  
22 that she had had with the site ombudsman. And, third,  
23 several conversation -- a conversation that she overheard  
24 that involved several of her colleagues and superiors.

25 None of these items had been disclosed

1 to us as the subject matter of Ms. Neumeyer's testimony.

2 My reading of the transcript and at numerous  
3 places in the transcript of the conference call shows  
4 that plainly these items are subject to being stricken.

5 JUDGE BLOCH: Ms. Garde?

6 MS. GARDE: Well, I would disagree with  
7 Mr. Watkins' characterization that Ms. Neumeyer's testimony  
8 included three separate incidents of which they had no  
9 knowledge.

10 Ms. Neumeyer's testimony consists of two  
11 separate incidents, one involving spent fuel pool liners  
12 and one involving an NCR.

13 The incident that Mr. Watkins' problem  
14 goes to is the incident involving the NCR. If you will  
15 recall, during the conference call on that Saturday morning,  
16 I believe it was Saturday morning, although I don't have  
17 a transcript of it available, when Mr. Roisman concluded  
18 the discussion with the representatives, then I was asked  
19 about the briefing that had been given on Saturday morning,  
20 to which I explained the Neumeyer briefing, to the best  
21 of my recollection at this time, as having provided them  
22 a copy of the affidavit which before that time they had  
23 not had; giving them a time period to read over the  
24 affidavit and the two incidents; indicating what two  
25 incidents she would testify to, giving the Applicant's



1 counsel an opportunity to ask questions, of which there  
2 were several which I answered; and then indicating to  
3 counsel that I would in my direct examination of  
4 Ms. Neumeyer be taking her directly through the incidents.

5 Now, the conversations which are included  
6 in the incident that Mr. Watkins has identified he wants  
7 to strike or have removed from her direct examination  
8 are admittedly not in the affidavit. However, at least  
9 two of those conversations had been discussed, to the  
10 best of my knowledge because I don't have the transcripts,  
11 in this proceeding between Mr. Grier -- during Mr. Grier's  
12 deposition and, also, during Mr. Purdy's deposition.

13 I didn't feel at that Saturday morning  
14 briefing that it was my responsibility to go over everything  
15 on these incidents that had been developed in the course  
16 of the previous 180 hours of deposition. There was certainly  
17 nothing but a good-faith intent which I think I re-extended  
18 during the conference call with you to go over those  
19 details.

20 As to the conversation with Mr. Grier  
21 and the ombudsman, that is already on the record in this  
22 case in Mr. Grier and Mr. Purdy's deposition.

23 During Ms. Neumeyer's direct, I attempted  
24 to get a full and clear record of an incident, and the  
25 direct examination on this point took no longer than



1 five minutes.

2 JUDGE BLOCH: Mr. Bachmann?

3 MR. BACHMANN: Yes, Judge Bloch.

4 I would support and oppose Mr. Watkins'  
5 motion in different parts.

6 The conversation that Ms. Neumeyer had  
7 with Mr. Grier is, in the Staff's view, part of the record.  
8 The Staff is not going to support his motion to strike  
9 as far as Mr. Grier is concerned since Mr. Purdy, I believe  
10 on the second day of these depositions, has stated that  
11 he had been contacted by Mr. Grier concerning Sue Ann  
12 Neumeyer. So I have no problems with leaving that in.

13 The other conversations I do support  
14 Mr. Watkins. These are incidents that in no way, to the  
15 best of my memory, were ever brought forth in front of  
16 the parties, and I have been present at, I believe, all  
17 of the other depositions that had anything to do or concerned  
18 Sue Ann Neumeyer.

19 So at least as far as Mr. Metheny's  
20 participation, I certainly would support the motion to  
21 strike.

22 I am a little unclear as to what the third  
23 conversation is, though, but I also believe that would  
24 be the same as Mr. Metheny's. If Ms. Garde could clarify  
25 that last conversation, I'll give the Staff's position

1 on that.

2 MS. GARDE: Well, this is the first time  
3 that I heard that this motion to strike included this  
4 conversation, which, I believe, Mr. Bachmann, you recall  
5 was Ms. Neumeyer's testifying that immediately prior to  
6 the meeting in Mr. Siever's office that the parties involved  
7 in that meeting met in the hall or met down the hall and  
8 went into the office together.

9 Ms. Neumeyer's recounting of that part  
10 of the conversation has always been in my mind part of  
11 the meeting since it included all the people also present  
12 in the meeting. And I believe Mr. Blixt and/or Mr. Siever  
13 testified briefly about those interactions in one of their  
14 depositions, but I'm not sure if it was Mr. Blixt or  
15 Mr. Siever.

16 MR. BACHMANN: With that clarification,  
17 Judge Bloch, I would support Mr. Watkins in his motion  
18 to strike that conversation. I recall having heard either  
19 Mr. Blixt or Mr. Siever allude to the fact that they went  
20 into the office together. However, none of the parties  
21 had been put on notice in any way that this -- that any  
22 conversations prior to the meeting in Mr. Siever's office  
23 would be the subject of Ms. Neumeyer's testimony, and,  
24 therefore, I think the parties are at a disadvantage having  
25 not been able to cross-examine or examine, shall we say,

1 Mr. Blixt and Mr. Siever as to the words as they perceived  
2 them, and now these witnesses have been excused. And  
3 I think that this should not be allowed to be part of  
4 the testimony since had we known there would be testimony  
5 in this area, the other witnesses present would have had  
6 an opportunity to express their views of those conversations.

7 So I do support Mr. Watkins' motion as  
8 far as the conversations prior to the meeting in Mr. Siever's  
9 office.

10 MR. WATKINS: Your Honor, this is Mr. Watkins.

11 JUDGE BLOCH: Is there something that you  
12 have to respond to that you haven't known and, therefore,  
13 you couldn't anticipate?

14 MR. WATKINS: Yes, Your Honor. Let me  
15 explain why in our view the issue is significant.

16 First of all, I won't bore you with  
17 extensive --

18 JUDGE BLOCH: This is not something new  
19 that you've just heard and you couldn't anticipate.

20 MR. WATKINS: Well, yes, it is, as a matter  
21 of fact.

22 It was the plain representation of the  
23 intervenors during the conference call that we had been  
24 fairly apprised of all of the names, incidents, and  
25 details --



1 JUDGE BLOCH: You already said that, though.

2 MR. WATKINS: Right.

3 JUDGE BLOCH: What was new? What are you  
4 responding to that's new?

5 MR. WATKINS: The -- We have two problems.  
6 First, the context in which we had the conference call  
7 was that we were about to present witnesses that were  
8 going to be cross-examined on the basis of Ms. Neumeyer's  
9 allegations. They have now left the stand.

10 We were not prepared at that time --

11 JUDGE BLOCH: Mr. Bachmann already told  
12 us that. I really want to know if there's anything new.  
13 Do you understand what I'm saying?

14 MR. WATKINS: Oh, I do understand what  
15 you're saying, Your Honor.

16 The only thing I'd add is a major player,  
17 a lead QC inspector, has emerged as a result of her direct  
18 testimony on these -- two of these incidents.

19 Intervenors have promised that they are  
20 leaving tomorrow night. There's a substantial likelihood  
21 that we'd want to put this individual on as a rebuttal  
22 witness. I don't think we're going to be able to in the  
23 time allotted.

24 JUDGE BLOCH: Well, certainly there would  
25 have to be a remedy for surprise. There's no question



1 about that.

2 MS. GARDE: Your Honor, I would disagree  
3 with surprise, and if we're going to discuss Mr. Metheny's  
4 involvement in this case as surprise, then I feel like  
5 I need to respond to Mr. Watkins' comments.

6 JUDGE BLOCH: You're not convinced that  
7 Mr. Watkins is correct that during that conference call  
8 CASE represented that all of the key material facts were  
9 already given to the Applicants?

10 MS. GARDE: And Mr. Metheny's involvement  
11 in the case was known at that time. I don't --

12 JUDGE BLOCH: Was it in the materials that  
13 were provided? Is that the test of what surprise is  
14 is what you notified the Applicants of in your letter?

15 MR. WATKINS: That's correct, Your Honor.  
16 And the affidavit that we were supplied a copy of is  
17 devoid of reference to conversations with Mr. Metheny  
18 by Ms. Neumeyer or his involvement in any other way.

19 JUDGE BLOCH: Ms. Garde, isn't that the  
20 test of surprise that we have applied?

21 MS. GARDE: Well, my understanding of surprise,  
22 sir, was the June 27th letter, and, admittedly, none of  
23 Ms. Neumeyer's written material, either her OI statement  
24 or her affidavit, was provided at the June 27th date.  
25 The OI statement and the affidavit were provided as well

1 as a briefing.

2 The Metheny conversation which has just  
3 been discussed is definitely discussed in the OI statement.  
4 The reference to Mr. Metheny's instructions, which to  
5 me seems a much more important fact, has been known to  
6 these -- to the Applicant since they received the affidavit.

7 MR. BACHMANN: Judge Bloch, I'd like to  
8 point out that it is my estimation that Mr. Metheny was  
9 identified in the affidavit as a person identity unknown  
10 in the parenthetical expression. Now, I'm basing that  
11 on the piecing together the various bits of testimony  
12 that has come across. But it seems fairly clear to me  
13 that that's to whom she was referring, and --

14 JUDGE BLOCH: I'm not sure why we're talking  
15 about the affidavit anyway. I thought we -- Was the  
16 affidavit simultaneous with the 27th letter? Because  
17 I thought we established that the July 27th letter was  
18 the measure of surprise.

19 MR. WATKINS: Your Honor, at the conference  
20 call, the basis for Intervenor's disclosure to the Applicants  
21 was Ms. Neumeyer's affidavit, and it is that affidavit  
22 to which we're referring in which Mr. Metheny doesn't  
23 appear other than as a bit player in a supporting role.

24 JUDGE BLOCH: He's mentioned?

25 MR. WATKINS: He is mentioned, I believe,

1 in connection with his attendance at one meeting, and  
2 we have absolutely no problem with Ms. Neumeyer's testimony  
3 as to that meeting. We're talking about a separate  
4 conversation and a separate meeting and certain other  
5 events in which he took part. He has now assumed a starring  
6 role in Ms. Neumeyer's presentation.

7 MS. GARDE: Well, I would certainly disagree  
8 that Mr. Metheny is playing a starring role in Ms. Neumeyer's  
9 presentation.

10 I was attempting to make a full and complete  
11 record, as I indicated I would, on walking Ms. Neumeyer  
12 through every detail of that particular incident. The  
13 incident hasn't changed. There certainly was no objection  
14 on the part of Mr. Watkins to much more detailed questioning  
15 on the documents related to this incident which would,  
16 given his characterization of the Metheny material, fall  
17 into the same category.

18 And I have a little bit of trouble with  
19 understanding why the objection to certain information  
20 in my direct is so vehement when, given Mr. Watkins'  
21 interpretation, many of the questions in direct falls  
22 into the exact same category.

23 JUDGE BLOCH: We will take a brief decisional  
24 break.

25 (A short recess was taken.)



1 JUDGE BLOCH: Before we rule, we'd like  
2 to clarify one aspects of the Chairman's earlier remarks.

3 Our understanding is that the clarification  
4 of the issues would be partly by the July 27 memorandum  
5 and partly by other materials that were part of that notice,  
6 including the Saturday discussion.

7 Having said that, it doesn't turn out to  
8 be relevant to the Board's ruling.

9 We're convinced that, in general, that  
10 CASE made a good-faith effort to disclose what it could  
11 and that this is not a question of lawyers trying to trick  
12 other parties into ignoring matters, surprising them by  
13 guile.

14 The party is not the same as the witness.  
15 In this case, the party, obviously, did not know everything  
16 in detail that the witness was going to be testifying  
17 to, and we're convinced that that was not intentional.

18 On the other hand, there does seem to be  
19 an element of surprise here and that the proper remedy  
20 for that is that the Applicants will be able to conduct  
21 either rebuttal testimony prior to the hearing, if they  
22 choose, at a reasonable time and place chosen by them,  
23 or at the hearing itself.

24 Is there another matter for the Board today?

25 MR. WATKINS: Yes, Your Honor. This is



1 Mr. Watkins again.

2 The third matter involves the scope of  
3 cross-examination of Ms. Neumeyer.

4 In response to the direct question where --  
5 JUDGE BLOCH: And who is the moving party  
6 on that?

7 MR. WATKINS: Applicants, Your Honor.

8 In response to the direct question during  
9 her cross-examination, "Where are you currently employed?",  
10 counsel for Intervenors objected and indicated that they  
11 would allow no cross-examination of Ms. Neumeyer as to  
12 her current employment and the circumstances under which  
13 she gained that employment.

14 To give you a little background, Ms. Neumeyer  
15 wrote the NCR about which she testified on January 25th,  
16 I believe it was, and two weeks later resigned her employment  
17 at Comanche Peak. That much is clear from her testimony.

18 We contend that prior to writing the NCR  
19 Ms. Neumeyer sought other employment and indeed, we believe,  
20 received at least one offer of employment.

21 Her only testimony as to what she thought  
22 about the disposition of her NCR was that she feared for  
23 her job. Nothing that anybody told her caused her to  
24 think this, but that is her testimony.

25 We believe that fears for her job are largely

1 irrelevant, specious. We believe we're entitled to  
2 pursue this line of cross-examination, and we ask you  
3 to direct Intervenors to allow us to do so.

4 JUDGE BLOCH: Ms. Garde, what is the problem?

5 MS. GARDE: Well, there's two problems.  
6 First, sir, Ms. Neumeyer's testimony, as Mr. Watkins  
7 characterized it, does not include any causal connection  
8 between the writing of the NCR and her resignation two  
9 weeks later. That is not a part of her direct case --  
10 our direct case in this matter. It is not something that  
11 we're offering or attempting to prove in any way.

12 And because it is not part of the direct  
13 case, we don't believe that inquiries into Ms. Neumeyer's  
14 current employment or when she got whatever job that she  
15 is currently working in or when she went looking for any  
16 job has anything to do with the incident involving the  
17 NCR in question.

18 JUDGE BLOCH: Can't you stipulate the  
19 resignation from the job had nothing to do with this NCR  
20 or the events surrounding it?

21 MS. GARDE: Well, I'm uncomfortable to  
22 stipulate that, given that language, only because I would  
23 want Mr. Roisman to hear that because of my lack of  
24 expertise in stipulations.

25 I do know that we are not -- Let me make

1 an aside note here, Your Honor.

2 Ms. Neumeyer had filed a Department of  
3 Labor claim. Mr. Watkins and I have both been involved  
4 in that. That claim is now settled.

5 And I'm reluctant to stipulate to something  
6 without Mr. Roisman's assistance that would in any way  
7 have anything to do with another proceeding. For the  
8 purposes of this proceeding, we believe that our argument  
9 is limited to our direct case, and our direct case includes  
10 nothing about Ms. Neumeyer's future employment or her  
11 resigning as a result of the writing of this NCR.

12 JUDGE BLOCH: You'd just have to stipulate  
13 that you are not going to use any argument that Ms. Neumeyer  
14 was discharged because of this incident.

15 MS. GARDE: Yeah. I have no problem  
16 stipulating that, sir. We didn't intend to do that.

17 JUDGE BLOCH: And that she didn't leave  
18 because of this incident.

19 MS. GARDE: I have no problem stipulating  
20 to that for the purposes of this proceeding.

21 JUDGE BLOCH: You're just not using that  
22 for this purpose.

23 MS. GARDE: Yes, sir.

24 JUDGE BLOCH: Now, under those circumstances,  
25 Mr. Watkins, what is the relevance of where she's now



1 employed?

2 MR. WATKINS: If Ms. Neumeyer, Your Honor,  
3 had already made up her mind to leave the site, then the  
4 NCR incident is entirely irrelevant.

5 JUDGE BLOCH: I guess I don't know enough  
6 about the NCR incident to reach that conclusion. Would  
7 you expand a little bit on that?

8 MR. WATKINS: Well, Your Honor, Intervenor  
9 clearly proposes to use the NCR incident in whatever form  
10 as proof of harassment or intimidation of QC inspectors.

11 Correct me if I'm wrong, Ms. Garde.

12 It seems obvious to us that if the very  
13 QC inspector that was involved in this incident had already  
14 made up her mind to go elsewhere, had sought other employment,  
15 that as far as she was concerned, anyway, the whole NCR --  
16 the writing of the NCR and the voiding of the NCR in her  
17 mind could have had no effect on her job responsibilities  
18 even in her own mind. And, in fact, she resigned her  
19 employment two weeks later.

20 JUDGE BLOCH: Ms. Garde --

21 MS. GARDE: May I respond?

22 JUDGE BLOCH: No.

23 It seems to me that whether or not  
24 Ms. Neumeyer was planning to leave, that the behavior  
25 in that incident is indicative of the behavior of the



1 employees on the site, and it also may have had some  
2 meaning to other QC employees who stayed on the job.

3 So the fact that she was planning to leave  
4 and that she may not personally have been affected by  
5 the incident does not mean that the incident is irrelevant.

6 MR. WATKINS: Oh, I'm not arguing on that  
7 point, Your Honor. I'm arguing we have the right to put  
8 on the record all the facts and circumstances surrounding  
9 her participation in the NCR. Intervenors cannot have  
10 it both ways. They can't trot out evidence of her having  
11 written the NCR without our being able to place it in  
12 context, and the only way that we can place it in context  
13 is by cross-examining Ms. Neumeyer.

14 JUDGE BLOCH: Okay. But, now, it seems  
15 to me the essential thing for your purpose is to cross-  
16 examine concerning her looking for a job and whether or  
17 not she had a job commitment prior to that time.

18 Is that what you're really interested in?

19 MR. WATKINS: That's correct, Your Honor.

20 MR. BACHMANN: Judge Bloch, this is Richard  
21 Bachmann.

22 Late last night, and the reason I say late  
23 last night is because we don't have the transcript yet,  
24 we had a lengthy discussion on the record, the counsel  
25 for various parties, which included Mr. Roisman, and I

1 had asked him to state for the record questions similar  
2 to what you asked Ms. Garde as to whether there was going  
3 to be any attempt on CASE's part to somehow link up  
4 Ms. Neumeyer's participation in this NCR incident with  
5 her resignation. And, as I said, unfortunately, I don't  
6 have the transcript because Mr. Roisman clearly made a  
7 statement on the record, and I won't try to quote him.  
8 I think that's the problem Ms. Garde has, too, is he stated  
9 in such a way that it was clear that he wanted those words  
10 on the record and no others.

11 But in the course of this discussion, it  
12 has occurred to me --

13 JUDGE BLOCH: Mr. Bachmann, which words  
14 did he want on the record and no others?

15 MR. BACHMANN: The statement he made in  
16 response to my question as to whether CASE intended to  
17 link up the NCR incident and Ms. Neumeyer's resignation,  
18 and I hesitate --

19 JUDGE BLOCH: Ms. Garde, is it possible  
20 that you are not authorized to say what you said to me  
21 before, or do you feel confident that our discussion is  
22 accurate?

23 MS. GARDE: I feel confident, sir, that  
24 our discussion, although given different words, is the  
25 same intent that Mr. Roisman had. I believe that his

1 words were, "This is our direct case. Ms. Neumeyer  
2 has not testified that there is any causal connection  
3 between the two, and our direct case is what we have  
4 presented," or words to that effect.

5 JUDGE BLOCH: We're satisfied that  
6 Ms. Garde is sufficiently authorized and that what she  
7 has said about what is part of their direct case is binding.

8 Mr. Bachmann, would you like to continue?

9 MR. BACHMANN: Yes, sir.

10 The other point, and this is sort of a  
11 secondary point now that Ms. Garde has clarified that  
12 for the Board, is the -- I think it is quite relevant  
13 to what may come out as far as proposed findings is  
14 Ms. Garde -- is Ms. Neumeyer's state of mind at the time  
15 of the NCR incident. I think that's extremely relevant  
16 because this whole concept of harassment or intimidation  
17 is almost entirely subjective and has a lot to do with  
18 the perceptions of the person who feels that they are  
19 being harassed or intimidated.

20 JUDGE BLOCH: Mr. Bachmann, wait.

21 Ms. Garde, that seems to me to be clearly  
22 right. Questions relating to the state of mind at the  
23 time of the incident would be relevant.

24 Do you agree with that?

25 MS. GARDE: Yes, sir, I agree with that.



1 I think that our discussion is becoming much broader than  
2 the issue that is in question here.

3 I have no problems with cross-examination  
4 of Ms. Neumeyer on her state of mind, on any of the events  
5 subsequent to the writing of the NCR and leading to her  
6 actual termination.

7 The question that I have a problem with  
8 is where Ms. Neumeyer works now.

9 MR. BACHMANN: Judge Bloch, just before  
10 we go a little bit further, I think that I didn't finish  
11 my last sentence or two, which would be the fact or absence  
12 of the fact that Ms. Neumeyer had at some time within  
13 that time frame been offered another job or had accepted  
14 another job goes very, very much to her state of mind  
15 in and around the time of the NCR incident and the time  
16 period immediately thereafter.

17 Now, I'm not arguing that we need to know  
18 exactly for whom she works, perhaps, but I certainly think  
19 that the circumstances concerning her employment after  
20 Comanche Peak and when these things occurred could be  
21 very relevant evidence as to her state of mind when she  
22 perceived she was being harassed or intimidated.

23 JUDGE BLOCH: Ms. Garde --

24 MS. GARDE: Your Honor, I feel a little  
25 bit like at this point we're wasting your time because



1 I have no problems with her answering any of the questions  
2 that Mr. Bachmann has just raised. I have no problems  
3 in Ms. Neumeyer answering questions about any search for  
4 employment during the time period that she was ending  
5 her employment at Comanche Peak.

6 I have a problem with her answering the  
7 question of where she worked now.

8 JUDGE BLOCH: Is where she works now the  
9 same as where she was negotiating at that time, if there  
10 was a negotiation?

11 MS. GARDE: No.

12 JUDGE BLOCH: It is not. Okay.

13 Now, Mr. Watkins, you're going to be able  
14 to ask about what was being negotiated at that time.

15 Is that enough for your purposes?

16 MR. WATKINS: I believe so, Your Honor.

17 JUDGE BLOCH: Okay. Is there anything  
18 else for us today?

19 MR. WATKINS: Yes, there is. Applicants  
20 have one further matter.

21 This is something that came up very late  
22 last night, and it affects -- It might dovetail with your  
23 ruling earlier on the availability of our presenting a  
24 rebuttal witness.

25 Ms. Neumeyer -- The first of the incidents

1 about which Ms. Neumeyer testified involved certain  
2 travellers, which are inspection documents, that she was  
3 asked to sign on the basis of other documentation.  
4 Her memory as to those travellers was, as you'll see from  
5 the transcript, somewhat limited.

6 As a result, on cross-examination we  
7 presented her with several copies of travellers and proceeded  
8 to cross-examine her on them.

9 At the conclusion of -- At the suspension  
10 of the cross-examination last night, counsel for Intervenors  
11 made several requests regarding those documents. First,  
12 they requested that we provide all pages or all documents  
13 associated with the individual travellers on which we  
14 cross-examined Ms. Neumeyer.

15 We have no problem with that, and we will  
16 do so, if such documents exist.

17 Second, however, Intervenors requested  
18 that we supply them with copies of all travellers that  
19 Ms. Neumeyer wrote as a part of that incident. Now, she  
20 has testified that there are approximately 112 of those  
21 documents.

22 We obtained the copies of the ones -- I  
23 think there were eight of them -- on which we cross-examined  
24 Ms. Neumeyer by sending somebody into the vault for a  
25 random search. He spent an entire day and came up with

1 these eight.

2 In order to come up with all 112, I am  
3 informed by employees of Applicant that we're talking  
4 about a massive investment of resources. We resist for  
5 that reason --

6 JUDGE BLOCH: Mr. Watkins --

7 MR. WATKINS: Yes, sir.

8 JUDGE BLOCH: -- I just want to ask if  
9 CASE would be satisfied with access to the area in which  
10 the documents are kept so they can conduct their own search.

11 MR. WATKINS: Your Honor, the documents  
12 are in the vault. I cannot even go into the vault,  
13 and we're certainly not going to allow Applicants to do  
14 so.

15 JUDGE BLOCH: You can't have someone go  
16 in there supervised by security so they can't tamper with  
17 the documents?

18 MR. WATKINS: I would have to check, Your  
19 Honor.

20 Let me get to the important point.

21 It is not so much the investment of  
22 resources. It is the time in which we invest them.  
23 Intervenors have indicated that they would like these  
24 materials to prepare Ms. Neumeyer for a redirect examination.  
25 Whether it is based on additional documents associated

1 with the travellers that we produced last night or on  
2 all of them is one question, but we're seriously concerned  
3 about when this is going to take place.

4 It is not clear at this point that we're  
5 going to finish Ms. Neumeyer's cross-examination tonight.  
6 We would like a Board ruling that if redirect is going  
7 to take place, it take place next week here so that we  
8 can finish Ms. Neumeyer's examination prior to the  
9 August 27 hearing.

10 The material and the matters would be  
11 difficult enough without having to pursue them for the  
12 first time before the Board on August 27th.

13 JUDGE BLOCH: Ms. Garde?

14 MS. GARDE: Well, first of all, I'm glad  
15 that Mr. Watkins brought up the travellers because I think  
16 that it is important that you realize that even though  
17 these documents were uniquely in the possession of the  
18 Applicant and Ms. Neumeyer was recounting the incident  
19 to the best of her recollection, that she did not have  
20 access to nor have any of the documents involved during  
21 the cross-examination of Ms. Neumeyer but not before  
22 even though Mr. Watkins indicated that they had had the  
23 documents since yesterday morning --

24 JUDGE BLOCH: We're not arguing the  
25 credibility of the witness. We're just arguing that --



1 MS. GARDE: No, I'm not arguing the  
2 credibility of the witness either, sir. I'm arguing that  
3 Mr. Watkins didn't produce any of these travellers until  
4 he sprung them on Ms. Neumeyer through --

5 MR. WATKINS: None of them were requested  
6 by CASE in this proceeding.

7 JUDGE BLOCH: Are they within a discovery  
8 request?

9 MS. GARDE: I believe that they are directly  
10 within the discovery request about which we've argued  
11 at great length and which I believe if you go back to  
12 the June 14th pretrial conference, Mr. Belter specifically  
13 represented that no witness would be cross-examined on  
14 any documents which we had not been provided with in  
15 discovery.

16 Now, we did not object to the cross-examination  
17 of Ms. Neumeyer on those documents, and we are not at  
18 this time. In fact, we're very glad they've produced  
19 some of the documents.

20 Our problem is the fact that the documents  
21 so far produced are incomplete and that they are not a  
22 complete -- They are not in its entirety all the travellers  
23 involved in this particular incident. Ms. Neumeyer has  
24 testified she believed there were 112 --

25 JUDGE BLOCH: That's slow down, Ms. Garde.

1           It seems to me that the remedy for CASE  
2 ought to be similar to what we were providing for Applicant.  
3 You have been surprised. I'm convinced that the surprise  
4 wasn't intentionally a trap. I hope it wasn't. I trust  
5 the lawyers didn't do that.

6           But seems to me that the only remedy you  
7 can have at this point would be to gain access to those  
8 other travellers.

9           Because of the apparent burdensomeness  
10 of actually finding them, are you willing to accept access  
11 supervised by site security?

12           MS. GARDE: Yes, sir.

13           JUDGE BLOCH: I'd like that to be done  
14 unless, Mr. Watkins, you find out that that somehow  
15 violates the security plan.

16           MR. WATKINS: Yes, sir. We'd like to have  
17 the option of sending one of our own people through or  
18 people, many people, through the documents to pull the  
19 documents in question.

20           JUDGE BLOCH: To what?

21           MR. WATKINS: We'd like to have the option  
22 of sending our people in to search for the documents first.

23           JUDGE BLOCH: Okay. But that was what  
24 you told me was too burdensome.

25           MR. WATKINS: Well, no. The point of

1 that, Your Honor, was -- and this is what we're leading  
2 up to. When exactly are we going to be finished with  
3 Ms. Neumeyer? We propose that she be made available for  
4 further cross, if necessary, and for redirect next week.

5 JUDGE BLOCH: It sounds to me like it is  
6 a very similar kind of problem that we had with the other  
7 surprise where your witnesses are not going to be available.  
8 I don't know why we should make CASE take some kind of  
9 a special penalty because they have been surprised. If  
10 the documents don't turn out to mean anything, there may  
11 not be need for further redirect. If they do mean something,  
12 they may, in fact, be dispositive.

13 I can't anticipate right now, but if they  
14 need to put the witness back on after they've got the  
15 documents, I don't see how I can preclude that.

16 MR. WATKINS: No. I'm not asking you to.  
17 In fact, I'm requesting that you schedule a time when  
18 she should do so.

19 MR. BACHMANN: Judge Bloch, this is  
20 Richard Bachmann.

21 I'd like to just briefly state that the  
22 Staff's position is that these documents are highly --  
23 at least some of them, the documents, could be highly  
24 relevant to the incident which is at issue here. So whether  
25 or not we get all of them, some of them, or whatever,

1 they certainly -- the use of the documents is, in my view,  
2 necessary, and their introduction in evidence would also  
3 be necessary. So -- Without which, I don't think the  
4 Board could get a true picture of this incident.

5 So I would like to just state for the record  
6 the Staff's position, and that is something must be done  
7 with these documents. They cannot be excluded.

8 MS. GARDE: I don't understand -- This  
9 is Ms. Garde -- how we can schedule something for next  
10 week when we don't know when the documents are going to  
11 appear.

12 JUDGE BLOCH: That seems like a fair comment,  
13 Mr. Watkins.

14 It seems to me that we should arrange --  
15 We should understand that there will be a fair opportunity  
16 for recross after the documents are made available for  
17 study.

18 MR. WATKINS: Yes, Your Honor.

19 JUDGE BLOCH: Isn't that the best we can  
20 do rather than scheduling it now without knowing when  
21 the documents will be turned over?

22 MR. WATKINS: That's fine. Our real concern  
23 is that we're going to hear further testimony for the  
24 first time on August 27th. The issue is significantly --

25 JUDGE BLOCH: Let's see what is practicable



1 in terms of when the documents actually are turned over.

2 MR. WATKINS: We will do the best we can  
3 to have them early next week, Your Honor.

4 JUDGE BLOCH: Now, Ms. Garde, are you going  
5 to be able to proceed on further redirect that's not related  
6 to those documents? It seems to me that the document  
7 problem does not excuse you from completing your redirect  
8 on other matters.

9 MS. GARDE: I agree with that, Your Honor.

10 JUDGE BLOCH: Okay. So the only matter  
11 will be if these documents provide cause for further  
12 redirect, then you should have that opportunity.

13 MS. GARDE: Thank you, sir.

14 JUDGE BLOCH: And it may be that the parties  
15 can actually handle some of that by stipulation rather  
16 than by redirect.

17 MS. GARDE: It is going to depend on the  
18 documents.

19 JUDGE BLOCH: Yes. By stipulating to the  
20 authenticity of the documents. They may speak for  
21 themselves. I don't know.

22 All right. Is there any other matter for  
23 this hearing?

24 MR. WATKINS: Not from Applicants, Your  
25 Honor.

MR. BACHMANN: Nothing from Staff, sir.

MS. GARDE: Nothing from CASE, sir.

JUDGE BLOCH: Then the conference is

adjourned.

(Whereupon, at 9:40 a.m., the conference  
call was concluded.)

\* \* \*

CERTIFICATE OF PROCEEDINGS

1 This is to certify that the attached proceedings before the  
2 NRC COMMISSION

3 In the matter of: TEXAS UTILITIES ELECTRIC COMPANY, et al.

4 Date of Proceeding: August 2, 1984

5 Place of Proceeding: Glen Rose, Texas

6 were held as herein appears, and that this is the original  
7 transcript for the file of the Commission.  
8

9  
10 Glenna M. Wright

Official Reporter - Typed

11  
12   
13 Official Reporter - Signature