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November 15, 1984

Peter B. Bloch, Esquire
Chairman, Atomic Safety and
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Washington, D.C. 20555

Herbert Grossman, Esquire
Alternate Chairman
Atomic Safety and Licensing
Board
U. S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Walter H. Jordan
Administrative Judge
881 West Outer Drive
Oak Ridge, Tennessee 37830

Re: In the Matter of Texas Utilities
Electric Company, et al. (Comanche Peak
Steam Electric Station, Units 1 and 2)
Docket Nos. 50-445-2 and 50-446-2

Gentlemen:

Mr. Roisman advised me yesterday that he intended to object to my representation in the O.B. Cannon matter. It was my understanding that he objected to my representation of Messrs. Lipinsky and Norris on the ground that such representation involves a conflict of interest. My secretary later advised me that the Licensing Board has scheduled a telephone conference for 10 a.m., November 16, 1984 for the purpose of addressing Mr. Roisman's "motion" to disqualify my representation of Mr. Lipinsky on conflict-of-interest grounds. Apparently there is no objection to my representation of Oliver B. Cannon & Son, Inc. and Mr. Norris. I further understand that Mr. Roisman's motion has not been reduced to writing -- presumably it would be presented for all to hear for the first time during the conference call.

I am unaware of the specific factual basis for Mr. Roisman's belief that such a conflict exists. However, I have examined again the prefiled testimony of Messrs. Roth, Trallo, Norris and Lipinsky; and in my judgment no conflict exists with respect to my representation of Mr. Lipinsky vis-a-vis my concurrent representation of Mr. Norris or Oliver B. Cannon &

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Son, Inc. I have discussed the matter in detail with Mr. Lipinsky and he does not believe such a conflict exists. Moreover, I have explained to Mr. Lipinsky that in the event a conflict were to arise in the future, I would so advise him, seek a recess, if necessary, in any ongoing proceeding and reconcile the matter.

Assuming arguendo that a conflict were to arise in the future, it should not be assumed that Mr. Lipinsky would be cast adrift lawyerless and without assistance. It is conceivable that my representation would continue on Mr. Lipinsky's behalf and not on behalf of the conflicting party. Of course, the reverse could occur in which event it would be my duty to protect Mr. Lipinsky's right to obtain counsel without jeopardizing his interest in the meantime by further participation before the Licensing Board. The point is that these considerations would be explored and resolved at the time that any such conflict might arise. Mr. Lipinsky understands the foregoing, and I can state unequivocally that he has voluntarily and with full understanding accepted my representation on that basis.

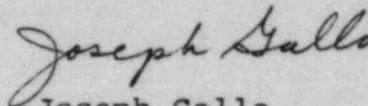
I consider Mr. Roisman's action to be untimely and frivolous. Nevertheless, his suggestion of my personal misconduct is a grave matter. The procedures for handling this matter should be rigorously structured to safeguard and preserve the rights and interests of all concerned. I do not believe a telephone conference call (with less than two days notice) where the accused will hear the charges for the first time and be expected to respond immediately with a resultant ruling comports with the required safeguards. I will, of course, participate in the conference call ordered by this Licensing Board. However, I do so without waiving any right to object that:

1. The Licensing Board does not have good cause to inquire into Mr. Roisman's charges because a proper written motion based on 10 C.F.R. §§ 2.713 and 2.718 detailing the factual basis for the allegations has not been filed;
2. The Licensing Board cannot in the environment of a hastily scheduled conference call participated in by necessarily ill-prepared counsel reasonably determine whether grounds exist for disqualification; and

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3. The Licensing Board does not have jurisdiction to consider this matter on the merits.

Sincerely,



Joseph Gallo
Counsel to Oliver B. Cannon
& Son, Inc., and Messrs.
Norris and Lipinsky

JG:sv

cc: Service List
Alan S. Rosenthal, Esq.
Dr. W. Reid Johnson
Thomas S. Moore, Esq.