

019
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before Administrative Judges:

Peter B. Bloch, Chairman
Herbert Grossman, Esq.
Dr. Walter H. Jordan

In the Matter of

TEXAS UTILITIES ELECTRIC COMPANY, et al.

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

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OFFICE OF SECRETARY
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BRANCH
Docket Nos. 50-445-0L2
50-446-0L2

ASLBP No. 79-430-06A 0L

SERVED MAR 13 1985

March 12, 1985

MEMORANDUM
(CASE Motion for Evidentiary Standard)

CASE's Motion for an Evidentiary Standard¹ raises questions that may properly be considered pursuant to §2.718 (e) and (f), which provide the Board with powers necessary to guide the complex and dynamic litigation for which it is responsible. The Board must be knowledgeable about the evidence and exercise careful judgment concerning motions apparently designed to prevent litigation from running down blind alleys.

In this instance, however, the Board concludes that it is wiser to wait for more information than to jump in with both feet. The NRC Staff's Comanche Peak Technical Review Team (TRT) has identified substantial deficiencies in portions of the Applicants' quality

¹ Citizen's Association for Sound Energy (CASE) filed its motion, called "CASE MOTION FOR ESTABLISHMENT OF AN EVIDENTIARY STANDARD AND REQUEST FOR BOARD DIRECTED INDEPENDENT INSPECTION", on February 4, 1985.

assurance/quality control program. However, the TRT and other parts of the NRC Staff have not yet reached a final position about the extent or implications of the alleged deficiencies; and Texas Utilities Electric Company, et al., (Applicants) have not yet responded to those findings or assessed their overall significance from its perspective.

Some of the already published TRT findings reflect on the character of plant management and on the quality of the plant. However, we will not draw conclusions about either of these matters before Applicants have an opportunity to place the findings in perspective, to show their understanding of the allegations, and to demonstrate their commitment to safety by taking necessary remedial steps.²

We do not think it appropriate to draw conclusions from the current state of the record. The Board has but three members. The Staff has marshaled a far larger contingent of experts for its review of Comanche Peak. In reaching its conclusions, the Board should fully consider the Staff's findings, particularly because recent Staff work appears to bear marks of care and diligence and to be of a character that would be helpful to the Board (subject to cross-examination or contrary proof if other parties take differing positions).

² Our order of February 15, granting in part a prior motion for protective order, should be interpreted to apply to the pending request for admissions and to the subsequent discovery requests. To the extent that the Staff is not addressing matters covered in these requests, it should inform Applicants, who should then respond within 20 days to such matters. The sense of our Order is
(Footnote Continued)

We make no findings on the merits of CASE's request. We also take no position on what procedural steps might be ordered by a board, in appropriate circumstances, to assure itself of the appropriateness of issuing a license. Nor need we comment on conditions a board might impose prior or subsequent to issuance of a license.

O R D E R

For all the foregoing reasons and based on consideration of the entire record in this matter, it is this 12th day of March 1985

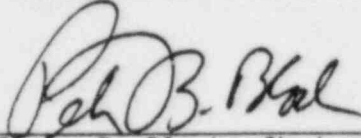
ORDERED:

That the February 4, 1985 "Motion for Establishment of an Evidentiary Standard and Request for Board Directed Independent Inspection", filed by the Citizens' Association for Sound Energy, is denied.

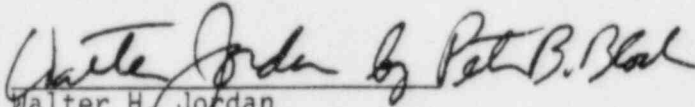
(Footnote Continued)

that Applicants should not duplicate Staff efforts. Obviously, time can be conserved if Applicants respond now to matters the Staff is not actively considering.

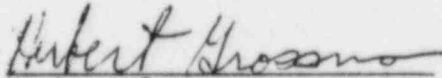
FOR THE
ATOMIC SAFETY AND LICENSING BOARD



Peter B. Bloch, Chairman
ADMINISTRATIVE JUDGE



Walter H. Jordan
ADMINISTRATIVE JUDGE



Herbert Grossman
ADMINISTRATIVE JUDGE

Bethesda, Maryland