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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

'84 NOV 20 A9:53

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
TEXAS UTILITIES ELECTRIC	)	Docket Nos. 50-445 and
COMPANY, <u>et al.</u>	)	50-446
(Comanche Peak Steam Electric	)	(Application for
Station, Units 1 and 2)	)	Operating Licenses)

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APPLICANTS' REPLY TO CASE'S MOTION  
CONCERNING INFORMATION REGARDING  
CINCHING DOWN U-BOLTS

I. INTRODUCTION

By Memorandum and Order of October 18, 1984, the Atomic Safety and Licensing Board ("Board") ordered that Texas Utilities Electric Company, et al. ("Applicants") provide the Board with the raw data supporting Table 2 of the Affidavit of Robert C. Iotti and John C. Finneran, Jr. ("Affidavit of Iotti and Finneran") appended to Applicants' Motion for Summary Disposition of CASE's Allegations Regarding Cinching Down of U-Bolts (June 29, 1984) ("Applicants' Motion"). On October 23, Applicants responded.<sup>1</sup> On November 5, 1984, CASE filed a motion which alleged that Applicants' October 23 response to the Board, when

<sup>1</sup> Subsequently, by Memorandum of October 24, 1984, the Board clarified its request and ordered Applicants to provide copies of the actual sheets upon which the raw data was recorded as well as the procedure used for collecting the data. On November 9, Applicants provided such information in the form of an Affidavit of John C. Finneran, Jr.

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viewed in conjunction with other statements by Applicants, reflected (1) a deliberate attempt by Applicants to mislead the Board and (2) a material false statement. Based on these allegations, CASE moved that the Board take seven specific actions related principally to discovery-type activities. CASE's Motion at 9-10. As set forth more fully below, Applicants submit that the bases for CASE's Motion (i.e., that Applicants have made a material false statement and deliberately attempted to mislead the Board) are totally without merit. Accordingly, the Board should deny CASE's Motion.

## II. APPLICANTS' REPLY

Applicants respond below to the bases for CASE's motion and to each of the seven individual actions specifically requested by CASE.

### A. The Bases of CASE's Motion Are Without Merit

As the bases for its motion, CASE alleges that Applicants have "deliberately attempted to mislead the Licensing Board, and that this constitutes a material false statement" (emphasis in the original). CASE Motion at 6. CASE's allegation relates to a sampling of the torques of cinched down U-bolts at CPSES taken by Applicants to provide an indication of what torque values may be expected in the field in order to reasonably set some parameters for the U-bolt testing program discussed in Applicants' motion for summary disposition regarding this issue. Affidavit of J.C. Finneran, Jr. at 2 ("Finneran Affidavit of November 9, 1984") attached to Applicants' November 9, 1984 Response to Board

Request for Raw Data Regarding Cinching Down U-Bolts. With regard to this sample, Applicants state that the U-bolts measured were "a randomly selected representative sample of cinched down U-bolt supports." Affidavit of Iotti and Finneran at 10. In its motion (at 2-3 and 6), CASE alleges that this statement is deliberately misleading and constitutes a material false statement for the following reasons:

- (1) the U-bolts at issue related to Unit 1 and common portions of the plant, while the sample was taken from Unit 2 U-bolts;
- (2) the sample included non-safety related U-bolts and U-bolts on pipe sizes not put in issue by CASE, i.e., pipes three inches in diameter and below; and
- (3) the U-bolts sampled may have been torqued using construction practices different than those used for torquing Unit 1 and common U-bolts.

These concerns are addressed seriatim.

1. Unit 2 U-Bolts

CASE states that Applicants should have sampled torque in the Unit 1 and common U-bolts and not those in Unit 2. Without any specific support, CASE alleges that the torque in Unit 2 U-bolts are not representative of the torque in the Unit 1 and common U-bolts. Accordingly, CASE concludes that in not informing the Board and all parties that the Unit 2 U-bolts were being used for the sample, Applicants were deliberately attempting to mislead the Board and made a material false statement. CASE's Motion at 2-3 and 6.

The Unit 2 U-bolts sampled were identical in make, manufacture and sizes to, and were torqued using the same construction practices as the Unit 1 and common U-bolts. In short, the torques recorded in the Unit 2 U-bolts were representative of the torques in the Unit 1 and common U-bolts. It should be noted that, in any event, Unit 1 had already been painted and any torque values measured on such U-bolts would have been suspect, if not altogether meaningless. Affidavit of J.C. Finneran, Jr. at 1-2 (attached). See also Affidavit of Iotti and Finneran (at 12) and Finneran Affidavit of November 9, 1984 at 2-3. Accordingly, Applicants sampled the only representative population available -- the U-bolts in Unit 2. Affidavit of J.C. Finneran, Jr. at 2.

In this regard, Applicants did not attempt to hide the fact that Unit 1 and common U-bolts had been painted and would provide suspect readings or that the sample was taken from Unit 2 U-bolts. Indeed, CYGNA even made a written inquiry which was distributed to all parties regarding the concern of painted U-bolts on Unit 1 and the impact on torque values. August 3, 1984 letter from N.H. Williams to J.B. George, Subject: "U-Bolt Cinching Testing/Analysis Program -- Phase 3 Open Item" at Attachment A, Question 13. If Applicants had been trying to hide this fact, Applicants would not have expressly called out that the sample was taken from Unit 2 in their October 29, 1984 Response to the Board's Request for Information Regarding

Cinching Down U-Bolts. In this regard, CASE has not and indeed cannot point to any statement by Applicants which reflects a deliberate attempt to mislead or deceive the Board.

With regard to CASE's allegation that Applicants made a material false statement, Applicants note that CASE again has not and cannot point to any statement of Applicants which is false. Rather, CASE provides the following bases for its assertions regarding a material false statement:

There is certainly nothing in Applicants' Motion for Summary Disposition or in the Sworn Affidavit of Messrs. Iotti and Finneran to indicate that the range of torques "which exists in the field" on their "randomly selected representative sample of cinched down U-bolt supports" were taken from supports in Unit 2. The wording in Applicants' Affidavit clearly implies otherwise. In fact, Applicants' Witnesses Messrs. Iotti and Finneran even state specifically (page 11 of Affidavit):

"Q. Is it possible that there might be considerably higher torques applied to U-bolts in the plant than those which you have described and were used in the tests?

"A. We consider that this likelihood is very remote . . ." [CASE's Motion at 2.]

Contrary to CASE's assertion, "wording in Applicants Affidavit," including the statement of Messrs. Iotti and Finneran quoted by CASE above, does not clearly imply that Applicants' sample was taken from Unit 1 U-bolts. Indeed, the remainder of Messrs. Iotti and Finneran's statement, which CASE chose not to include,

makes clear that the bases for their position that higher torque values in the field were not expected was the characteristic of the affected material to relax to approximately 1/2 yield.

In sum, CASE's allegations as noted above provide no support for its position that Applicants either deliberately attempted to deceive the Board or made a material false statement.

2. Non-Safety Related U-Bolts and U-Bolts on Pipe Sizes Below Four Inches

CASE alleges that since Applicants' sample consisted of non-safety related U-bolts and U-bolts on pipe sizes below four inches (neither of which is at issue in this case), Applicants' sample was not representative. Accordingly, CASE alleges that Applicants' statement that its sample was representative was a deliberate attempt to mislead the Board and constitutes a material false statement. CASE's Motion at 6.

First, Applicants Motion makes clear that the sample consisted of differing pipe sizes; indeed, the sample was broken down into pipe sizes. Table 2 to Affidavit of Iotti and Finneran. Such a breakdown was necessary to set parameters on the pipe sizes to be tested as set forth in Applicants' Motion. Accordingly, CASE's allegation concerning pipe sizes is meaningless.

With regard to Applicants' use of non-safety related U-bolts, in that all cinched down U-bolts at CPSES (safety related and non-safety related) are identical in make and manufacture and were torqued using the same construction practice, the torque on non-safety related U-bolts are representative of the torque on

safety related U-bolts. Indeed, a comparison of the torque measured on non-safety and safety related U-bolts demonstrates this point, and CASE has not, and cannot state otherwise. Applicants note that if anything, use of non-safety related U-bolts in the sample was conservative in that workers may be less careful with torquing of such U-bolts. Finneran Affidavit at 2-3.

In sum, CASE's allegations noted above provide no support for its position that Applicants have deliberately attempted to mislead the Board or made a material false statement.

3. Construction Practice Concerning Torquing of U-Bolts

Without any support, CASE alleges that "it is likely (and this can be proved through discovery) that the procedure adopted by Applicants on 10/8/82 was utilized in the torquing of U-bolts in Unit 2, whereas it was not utilized, in most cases, in Unit 1 and common. If the 10/8/82 procedure was in fact utilized in the torquing of U-bolts in Unit 2 but not utilized in Unit 1 and common, it appears that Applicants deliberately sought to mislead the Board." CASE's Motion at 6.

As previously noted, the construction practice for torquing Unit 1, common and Unit 2 U-bolts was the same. In this regard, Applicants note that the procedure referenced by CASE was written at the suggestion of the NRC resident inspector at that time (Robert Taylor) to document the construction practice which had been and was currently being used to torque U-bolts. Finneran Affidavit at 2. In short, CASE's allegation is without merit.

From the foregoing, Applicants maintain that CASE's allegations that Applicants deliberately attempted to mislead the Board or made a material false statement are totally without merit, and CASE has failed to provide a basis for its motion. Accordingly, Applicants submit that CASE's Motion should be denied.

B. CASE's Specific Requests

While Applicants argue above that CASE's motion should be denied, Applicants respond below to each of the seven specific requests of CASE. The information requested in items 1 and 2 (related to raw data on the sample conducted by Applicants)<sup>2</sup> was previously provided in Applicants' November 9, 1984 response to the Board's request for such information. The requests made in items 5 and 6<sup>3</sup> relate to CASE's allegation that Applicants made a false material statement. This allegation is addressed above.

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<sup>2</sup> Items 1 and 2 are quoted below:

1. Order Applicants to provide to the Board and parties the raw data requested in the Board's 10/18/84 Memorandum and Order (Information Concerning Torques in U-Bolts).
2. Order Applicants to provide a sponsoring sworn affidavit with the raw data referenced in item 1. above. [CASE's Motion at 9.]

<sup>3</sup> Items 5 and 6 are quoted below:

5. Find that Applicants have made material false statement(s) to the Atomic Safety and Licensing Board.
6. Order Applicants to provide the Board with an explanation of their material false statement(s). [CASE's Motion at 9.]



The remaining three items are addressed below.

1. Item 3: Allow CASE further discovery regarding the information requested by CASE during the 8/6/84 telephone conference call among Applicants/Staff/CASE and all other information relevant to this matter, as well as discovery regarding possible unstable supports in Unit 2 (see discussion at pages 3 through 8 preceding). [CASE's Motion at 9.]

Except for the question of how many U-bolts sampled were cinched down after October 8, 1982 (when the torquing construction practice noted by CASE was documented by procedure), it appears that all information requested by CASE in the August 6, 1984 conference call has been provided (1) during the conference call, (2) in Finneran's November 9 Affidavit, or (3) previously in this document. With regard to when the sampled U-bolts were cinched down, while Applicants have not performed a detailed analysis regarding this issue, in that there was no difference in construction practice concerning torquing of U-bolts before or after this date (as noted above), the information requested is irrelevant and immaterial. Finneran Affidavit at 1-2.

With regard to CASE's request for discovery of Unit 2 supports, Applicants maintain that discovery on Unit 2 would be meaningless. CASE has already taken the position that any "instability problems identified in Unit 1 exist in Unit 2 to the same degree as was noted in Unit 1 . . . ." CASE's Answer to Applicants' Response to Board Request for Information Regarding Cinching Down U-Bolts in the form of Affidavit of CASE Witness Jack Doyle at 2-3 (filed on November 5, 1984, but dated October

29, 1984). Applicants have stated that torque in the Unit 2 U-bolts are representative of torque in the Unit 1 U-bolts. In short, if CASE wins its case regarding this issue on Unit 1 U-bolts, the findings would be equally applicable to Unit 2. Accordingly, now seeking discovery on Unit 2 U-bolts would provide no meaningful information to assist in resolving this issue and would only serve to delay its resolution. This is particularly the case in that Applicants have committed to retorque all U-bolts on single struts or snubbers in the plant, including Unit 2.

2. Item 4: Order Applicants to provide the documents requested on discovery not only to CASE, but to the Licensing Board and other parties as well (if not in the interest of Applicants' shouldering their rightful burden, then as a sanction for their having made a material false statement to the Licensing Board). [CASE's Motion at 9.]

As noted above in response to item 3, additional discovery is neither warranted nor justified. Accordingly, Applicants maintain that this item is moot. In any event, the only basis CASE provides for its request is that Applicants have made a material false statement. This basis is not only irrelevant to the request, but also without merit, as noted above.

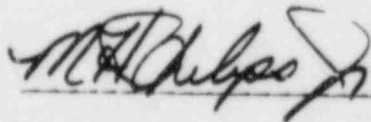
3. Item 5: Order Applicants to provide the Board with a sworn affidavit stating whether or not Applicants have utilized other random representative samples from Unit 2 rather than Unit 1, not only in their Motions for Summary Disposition and responses, but elsewhere in these proceedings or in their responses to the Technical Review Team (TRT) report (and if so, details regarding such instance)." [CASE's Motion at 9-10.]

As set forth in the attached Affidavit of J.C. Finneran at 3, Applicants are unaware of any other instance where a random field sample from Unit 2 was conducted in lieu of and as representing a sample in Unit 1. In this regard, however, in Affidavit of Messrs. Iotti and Finneran Regarding Consideration of Force Distribution in Axial Restraints (at 10), attached to Applicants' Motion on this issue (July 9, 1984), Applicants' sample consisted of 29 supports employing lugs, 24 of which are in Unit 1 and common and five of which are in Unit 2.

III. CONCLUSION

From the foregoing, Applicants maintain that CASE's Motion should be denied. (Applicants note that, in any event, the information provided herein and in Applicants' November 9 Response to the Board (as noted above) provides virtually all of the information requested by CASE in its motion.)

Respectfully submitted,



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