

162

'85 MARCH 20 09:30
March 19, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
TEXAS UTILITIES ELECTRIC)	Docket Nos. 50-445 and
COMPANY, ET. AL.)	50-446
)	
(Comanche Peak Steam Electric)	(Application for
Station, Units 1 and 2)	Operating Licenses)

APPLICANTS' REPLY TO CASE'S MOTION TO STAY RULING
REGARDING CASE'S MOTION FOR RECONSIDERATION OF
LICENSING BOARD'S MEMORANDUM (CONCERNING WELDING ISSUES)

On December 18, 1984, the Atomic Safety and Licensing Board ("Licensing Board") issued Memorandum (Concerning Welding Issues), LBP-84-54, 20 NRC _____ ("Welding Decision") in the captioned proceeding. On January 7, 1985, Citizens Association for Sound Energy ("CASE") filed a Motion for Reconsideration of the Board's 12/18/84 Memorandum (Concerning Welding Issues) ("CASE's Motion for Reconsideration of the Welding Decision"). Texas Utilities Electric Company, et. al. ("Applicants") and the NRC Staff filed responses on January 22 and February 7, 1985, respectively. During recent telephone communications with all parties, the Licensing Board Chairman stated his intention to proceed with ruling on the issues associated with CASE's Motion for Reconsideration of the Welding Decision. On March 7, 1985, CASE filed the instant motion seeking reconsideration of the

8503200490 850319
PDR ADOCK 050004-5
G PDR

DS03

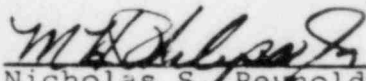
Licensing Board Chairman's stated intent to proceed to decision on CASE's previous motion for reconsideration. As set forth below, Applicants oppose the instant motion.

CASE's instant motion is simply a reaffirmation of one of its motions set forth in its Motion for Reconsideration of the Welding Decision, viz., because of Applicants alleged misrepresentation of the record coupled with the alleged lack of time CASE has had to present its case regarding the welding issues, the Board should refrain from ruling on the issues until CASE has had an opportunity to supplement its Motion for Reconsideration of the Welding Decision. CASE's Motion for Reconsideration of the Welding Decision at 62-64. CASE's motion is basically a rehash of its original motion for reconsideration. CASE provides no substantive support for its new motion that supplements or modifies its original motion.

Applicants hereby respond to CASE's motion by incorporating by reference our January 22, 1985 response to CASE's previous motion, at pp. 20-22. Applicants would also note that CASE's stated intent to supplement its motion for reconsideration with new arguments or positions is contrary to Commission direction. See, e.g., Central Electric Power Cooperative, Inc. (Virgil C. Summer Nuclear Station, Unit No. 1), CLI-80-26, 14 NRC 787, 790 (1981), wherein the Commission stated that a motion for reconsideration is proper only if it is confined to "an elaboration upon, or refinement of arguments previously

advanced." See also Tennessee Valley Authority (Huntsville Nuclear Power Plant, Units 1A, 2A, 1B and 2B, ALAB-418, 6 NRC 1, 2 (1977)).

In conclusion, for the reasons set forth above, Applicants maintain that the Board should deny CASE's instant motion and proceed to decision on CASE's Motion for Reconsideration of the Welding Decision.



Nicholas S. Reynolds
Malcolm H. Philips, Jr.
BISHOP, LIEBERMAN, COOK,
PURCELL & REYNOLDS
1200 Seventeenth Street
Washington, D.C. 20036
(202) 857-9817
Counsel for Applicants

March 19, 1985

'85 MAR 20 A9:31

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Reply to CASE's Motion to Stay Ruling Regarding CASE's Motion for Reconsideration of Licensing Board's Memorandum (Concerning Welding Issues" in the captioned matter were served upon the following persons by deposit in the United States mail, first class, postage prepaid, this 19th day of March, 1985.

Peter B. Bloch, Esq.
Chairman, Atomic Safety and
Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Chairman, Atomic Safety and
Licensing Appeal Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

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

Mr. William L. Clements
Docketing & Service Branch
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Kenneth A. McCollom
Dean, Division of Engineering
Architecture and Technology
Oklahoma State University
Stillwater, Oklahoma 74074

Stuart A. Treby, Esq.
Office of the Executive
Legal Director
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Mr. Robert D. Martin
Regional Administrator,
Region IV
U.S. Nuclear Regulatory
Commission
611 Ryan Plaza Drive
Suite 1000
Arlington, Texas 76011

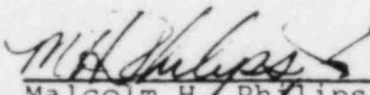
Chairman, Atomic Safety and
Licensing Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

*Renea Hicks, Esq.
Assistant Attorney General
Environmental Protection
Division
P.O. Box 12548
Capitol Station
Austin, Texas 78711

Lanny A. Sinkin
3022 Porter Street, N.W.
Suite 304
Washington D.C. 20008

Mrs. Juanita Ellis
President, CASE
1426 South Polk Street
Dallas, Texas 75224

Elizabeth B. Johnson, Esq.
Oak Ridge National Laboratory
Post Office Box X
Building 3500
Oak Ridge, Tennessee 37830



Malcolm H. Philips, Jr.

cc: John W. Beck
Robert A. Wooldridge, Esq.