

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before Administrative Judges:

Peter B. Bloch, Chairman
Dr. Kenneth A. McCollom
Dr. Walter H. Jordan

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In the Matter of

TEXAS UTILITIES ELECTRIC COMPANY, et al.

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

Docket Nos. 50-44506
50-44606

(Application for
Operating License)

October 31, 1984

MEMORANDUM
(Multiple Filings)

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Applicants' Reply to Board Chairman's "Preliminary Views" Regarding Additional Pleadings, October 26, 1984, is largely well taken and has caused the Board to develop firmer guidelines on multiple filings with respect to Summary Disposition Motions or "Written Filings Motions."

First, however, we feel constrained to correct what we perceive to be a misstatement of the chairman's preliminary views on this question. What we told the parties was that we were deferring a ruling on the appropriateness of CASE's fourth-round responses. Furthermore, we assured Applicants that we would inform them if it was necessary for them to respond to any part of such a fourth-round response. Consequently, we did not think it necessary for Applicants to answer such responses. It was Applicants who insisted on responding.

We agree with Applicants that fourth- and higher-round responses should not be the general rule. Hence, any such responses must clearly demonstrate, for each subject matter discussed: (1) relevance, (2) what new material in the last round filing is being responded to, (3) why

the party was unable to anticipate this material in its last filing, and (4) the safety significance of the point that is being made. We will strike any filings that do not comply with this directive.

On the other hand, we have now obtained and read the transcripts of the August 8, 9 and 23 meetings between Staff and Applicants. Our understanding of these meetings leaves us without any rational explanation of how Applicants could have come to assure this Board that there were no significant matters raised in those meetings. We trust that Applicants understand the importance of the matters raised by the Staff and the apparent need to supplement their Summary Disposition motions in a clear, responsive fashion. Supplementation appears to be necessary to avoid denial of the filed motions.

Under the circumstances, we should not have required CASE to respond to summary disposition motions with respect to which the Staff has serious doubts. We required CASE to do so based on Applicants' representations that significant matters were not involved. Hence, we unnecessarily subjected CASE to a time deadline and to the likely need to make multiple filings. We will consider this burden in subsequent rulings on time deadlines. Furthermore, we will automatically permit CASE to make fourth- and higher-round responses with respect to any pending motions which CASE believes were significantly questioned by Staff at these meetings. Once CASE makes such a good-faith representation, its obligation to demonstrate the four points listed above will not attach. The filing will be accepted.

ORDER

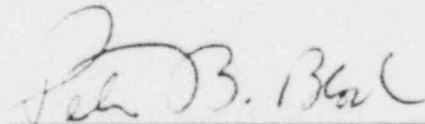
For all the foregoing reasons and based on consideration of the entire record in this matter, it is this 31st day of October 1984

ORDERED:

That fourth- and higher-round pleadings on summary disposition motions ordinarily shall not be allowed unless they comply with the accompanying memorandum by demonstrating each of the (4) points discussed by the Board.

That fourth-round pleadings (and appropriate sixth-round pleadings) shall be allowed on any matter with respect to which CASE makes a good-faith statement that the Staff raised significant questions at the August 1984 meetings with Applicants.

FOR THE
ATOMIC SAFETY AND LICENSING BOARD



Peter B. Bloch, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland