11/5/84

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CASE'S MOTIONS

AND

CASE'S ANSWER TO APPLICANTS' RESPONSE TO BOARD REQUEST FOR INFORMATION REGARDING CINCHING DOWN U-BOLTS

On 10/23/84, Applicants filed their Response to Board Request for Information Regarding Cinching Down U-Bolts (received by CASE 10/24/84). CASE (Citizens Association for Sound Energy) and its witnesses have reviewed that Response and find that it calls for an answer by CASE. This Answer is contained primarily in the attached Affidavit of CASE Witness Jack Doyle, with the following additional comments and motions.

We note, first of all, that Applicants' 10/23/84 pleading was not responsive to the Board's Order, which asked for "the raw data underlying Table 2." In Applicants' Response, they state (bottom of page 1): "Applicants have been able to assemble such information in this short period and append it hereto." However, Applicants did not supply the raw data, but rather supplied only a listing with no supporting documentation. Further, the listing was unsponsored; no sponsoring affidavit accompanied it. CASE

assumes that the Board will require Applicants to provide the raw data requested, with sponsoring affidavit attached. In any event, CASE so moves.

The listing attached to Applicants' Response is truly amazing, and the implications which it raises are enormous and extremely serious. In the sworn affidavit of Applicants' Witnesses Messrs. Iotti and Finneran, they made the representation to the Licensing Board that:

> "To determine the range of torques which exists in the field, Applicants inspected the torque of a randomly selected representative sample of cinched down U-bolt supports. The results of this sampling are summarized in Table 2. This data was used to determine the range of torques to be applied to each of the test specimens." (Emphases added.)

However, as discussed by Mr. Doyle in his attached Affidavit (pages 2-4), the sample which Applicants selected was not representative of the supports which have been under discussion in these proceedings for the past two years, because CASE and its witnesses have been concerned with supports in Unit 1 and common, and all of the samples selected by Applicants are in Unit 2. 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. . . "

This is particularly misleading when Unit 1 has a large number of cinched-down U-bolts which could have been used for the sample.

During the 8/6/84 telephone conference call among Applicants/NRC Staff/CASE, CASE Witness Mark Walsh attempted to obtain information on discovery regarding the criteria which was used to select the particular supports and how the random sample was selected, how that random sample is representative of all the U-bolts in the plant, how many of the supports were in the sample which had the the U-bolts cinched down before and after the 10/8/84 Brown & Root procedure went into effect, etc. As excerpted from pages 11-16 of the 8/6/84 Transcript (all emphases added):

> "MR. WALSH: The next item is number three [from the statement of material facts]. . . .
>
> ". . . it is about a sample that you looked at. We would like to know what criteria was used to select the particular supports, how many of these supports have the U-bolts cinch (sic) down after the ground and root (sic) procedure before this cinching of U-bolts came into effect, were in that sample. How the random sample was selected, and how that random sample is representative with (sic) the bolts, all the U-bolts in the plant. . .
>
> "MR. IOTTI: First of all, you have correctly stated the sample was random in the sense that we did not choose any particular type of bolt. We chose reasonably, with a criterion that said we should C-bolt (sic), not U-bolt in different sizes, <u>in random areas of the plant</u>. In the affidavit, cable tubes (sic -- should be Table 2), you will have total number of U-bolts. It is broken down in the number of U-bolts, and these bolts identified by size. That is Table 2.
>
> "MR. WALSH: How many of these have been inspected by QC for the torque values?
>
> ". . . MR. IOTTI: We are talking about sample of the torque that are present in the cinched narrow (sic - believe should be down) U-bolt, which were taken randomly in the...
>
> "MR. FINNERAN: In the field?
>
> "MR. IOTTI: February (sic). His question is how many of those U-bolts have been inspected through the Brownley Rhodes (sic - should be Brown & Root) Procedure?

"MR. FINNERAN: To the best of my knowledge, all the U-bolts have been inspected.

"UNIDENTIFIED SPEAKER: Mark, would you repeat your question again for John [Finneran]?

"MR. WALSH: My question was how many of the U-bolts have been inspected for the torques that came out in the brown root (sic) procedure, and were inspected by QC?

". . . MR. FINNERAN: As I said before, to the best of my knowledge, all of U-bolts that these samples were taken on had been completed in construction, had been bought off by QC.

"MR. WALSH: Of the sample that you look (sic) at, was there any type of reliability analysis performed that one could extract the confidence level that the supports would be stable with the ascension (sic - should be cinched) down values, the torque values and cinching them down?

". . . MR. IOTTI: . . . Mark, let me see if I can answer your question, because I am not sure I totally understand. I think what you are driving at is have we established every one of the supports that we sample. Is there a sufficient torque applied to assure stability?

"MR. WALSH: In a numerical sense. . . You didn't test every one of them. You only tested a sample.

"MR. IOTTI: I understand. As a matter of fact, we are telling you in the report that there may be some (sic) the lowest range of torque of which may be below the value in which stability in the sense that the support won't move. . .

"Might not be assured. That doesn't mean in our minds the support is unstable in the sense that it performs its functions. But, if you interpret stability as being support, it will not move. There already are some in the range we have sampled which will be below that level. That is why we have committed to go back and inspect all of the stationery U-bolts to make sure that the minimum value of torque exists. When I say all, I mean all the stationery U-bolts.

". . . That is in the affidavit.

". . . Does that answer your question?

". . . I was just wondering if my answer satisfies Mr. Walsh on his question on three?

"MR. WALSH: Yes.

"MR. FINNERAN: Let's make it clear too, that there is nothing that the applicant is to provide in additon to what we just discussed. Is that correct? We owe you no documents?

"MR. WALSH: That's correct. Alright. The next item is number four. This is relating sort of, to what Dr. Iotti was just talking about. The second sentence is therefore unlikely. How will one know from a reinspection, that there has been an overtorqued condition, and how does one come up to a percentile that saying, well, maybe only one percent will be overtorqued.

"MR. IOTTI: Okay, Mr. Walsh, if you will look at table 2 on the affidavit, you will note that none, zero, of the supports that were sampled were, in fact, overtorqued. That is, whether they might have been overtorqued to begin with or not, we don't think they were. At the space when they were inspected, none of them showed overtorquing. Now, I don't remember how many total U-bolts we inspected, do you remember John?

"MR. FINNERAN: No. I don't remember off hand, Bob.

"MR. IOTTI: I think, if I can find table 2. I would say, roughly, 150 supports. Now, when you find none of them overtorqued out of 150, you already have a certain confidence that you have a high probability that none of the others will be overtorqued.

". . . Is that sufficient, Mark?

"MR. WALSH: Yeah. That is sufficient. . . "

There was nothing in CASE's conversation with Applicants to indicate that their "randomly selected representative sample of cinched down U-bolt supports" was in Unit 2. Certainly CASE Witness Mark Walsh, CASE President Juanita Ellis (who was also on the 8/6/84 conference call), and CASE Witness Jack Doyle, who reviewed the transcript of the 8/6/84 conference call, thought that Applicants' sample was from Unit 1 and common (see attached Doyle Affidavit, at page 2).

Because CASE was misled by Applicants' statements during the 8/6/84 conference call, we ask that the Board now grant CASE discovery regarding the questions which we originally asked during that call.

In addition, Applicants' inclusion in the "random" sample of 35 Class 5 supports, 16 Class 6 (balance of plant, non-safety related) supports, and at least 1 Class 4 support, is obviously not representative, and the inclusion by Applicants of 20 small bore and 16 3" diameter line U-bolts in their "random" sample is certainly not representative of the 4" and over sizes with which Messrs. Walsh and Doyle have been primarily concerned. (See attached Doyle Affidavit at pages 3 and 4.)

Further, 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. If the 10/8/82 procedure was not utilized in Unit 2, it appears that the Applicants have as much of a problem in Unit 2 as they do in Unit 1 -- a problem which hitherto was unknown and which has not yet been addressed in these proceedings.

CASE submits that Applicants' use of supports from Unit 2 rather than from Unit 1 (in addition to the use of non-safety related and other non-representative supports) in Applicants' allegedly "randomly selected representative sample of cinched down U-bolt supports" is clearly an instance wherein the Applicants have deliberately attempted to mislead the Licensing Board, and that this constitutes a material false statement. The Board should so find.

One of the obvious results of the use of this controlled, rather than random, sample by Applicants is that the results of the tests which utilized this skewed sample are now invalid and meaningless, as is much of the information contained in Applicants' Motion and Affidavit.

However, the implications of this misrepresentation by Applicants go far beyond, and are much more serious than, the single issue of cinched-down U-bolts. Because Applicants have in this instance deliberately utilized a non-representative sample, while stating that it was a representative random sample, the Licensing Board cannot now be certain that it can depend upon any assertions by Applicants that they have taken representative or random samples in any other instances. In fact, the Board cannot now rely upon any representations by Applicants about **anything** without documentation to support their assertions.

This is particularly alarming to CASE, since we have not attempted to dissect each and every statement by Applicants. We have, of necessity, accepted some of their statements at face value (as we did, in good faith, during the 8/6/84 telephone conference call among Applicants/Staff/CASE). This means that the Board not only cannot rely upon Applicants' candor and truthfulness, it also cannot rely upon CASE to have caught every misstatement or misrepresentation by Applicants, and it is reasonable to assume that there are other such instances which we have not caught and brought to the Board's attention.

In addition to the preceding, since it now appears that there are additional unstable supports in Unit 2 (which is significant new information), CASE believes that additional discovery is necessary in order

to ascertain the extent of the problem, and CASE also moves that the Board allow CASE discovery regarding possible unstable supports in Unit 2.

CASE further moves that the Board order Applicants to provide the documents requested not only to CASE, but to the Licensing Board and other parties as well. The burden of proof is supposed to be on the Applicants -- not on CASE; this is especially true in regards to these Motions for Summary Disposition, wherein Applicants are being allowed (without having made a showing of good cause) to relitigate the design/design QA issues. It is unfair to require CASE to obtain documents from Applicants, then have to make and mail copies for the Board and parties at CASE's expense. Applicants should properly bear that financial burden -- not CASE. The Board is well aware that it has always been CASE -- not the Applicants or the NRC Staff -- who have provided the Board with documentation in these proceedings. Over the years, this has been a tremendous financial burden, as well as a severe burden on CASE's few volunteers insofar as the amount of time necessary to copy, collate, and prepare those documents for mailing. It is time that Applicants were made to shoulder their rightful burden in this regard. (Although CASE believes that this requirement should be imposed upon Applicants in the interest of fairness alone, should the Board disagree, CASE moves that it be imposed as a sanction for their having made a material false statement to the Board regarding the representativeness of their sample.)

For the reasons stated in the preceding, CASE moves that the Board:

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.
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).
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).
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).
7. 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 each such instance).

Respectfully submitted,

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