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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

APPLICANTS' RESPONSE TO BOARD REQUEST FOR ADDITIONAL INFORMATION REGARDING IN-PROCESS WELD REPAIR HOLD POINT

## I. INTRODUCTION

By Memorandum of October 11, 1984, the Atomic Safety and Licensing Board ("Board") Chairman documented a telephone conference call in which he requested what Applicants believed to be information regarding the need for hold points on repair of weave welds found to be defective by QC inspection. On October 25, 1984, Applicants responded. Subsequently, by Memorandum of October 29, 1984, the Board stated that Applicants refused to respond to the Board's October 11 request and that Applicants' response was deficient for two reasons as noted below:

> We find this filing non-responsive for two reasons. First, the Board is concerned with hold points on all repairs, not just weave welds. Second, the Board is concerned with obtaining an explanation for why hold points are required on authorized welds[1] but

1 The term "authorized welds" was clarified by a phone conference of November 1, 1984 with Judge Bloch to mean (footnote continued)

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> appear not to be required at all for in-process welds. What is there about repairs of in-process welds which makes it appropriate for the welders to make their own inspection of cleanliness, without a hold point, when such an inspection, solely by the welder, is not considered sufficient for repair of a final weld? This just does not seem to make sense and we need an explanation. [Board Memorandum of October 29 at 1-2.]

Applicants response to this clarified request is attached in the form of the Affidavit of W.E. Baker. Contrary to the Board's statement however, Applicants have not heretofore refused to respond to the October 11 request for information. A fair reading of the Board's October 11 Memorandum does not reflect a clear request for the information which the Board states Applicants were unresponsive in not providing and the criticism of Applicants is unwarranted and unfair. Further, the thrust of the Board's inquiry relates to either a defaulted issue which had previously been closed (weave welding -- see Applicants' October 25 Response at 3-5) or to a matter which had never been previously identified as an issue in controversy (repair of all welds -- see pp. 2-4, infra).

## II. APPLICANTS' "UNRESPONSIVENESS" WAS BASED ON A LACK OF CLARITY IN THE REQUEST

The first reason that the Board provides for its position that Applicants' initial reply was unresponsive is the Board's apparent view that its October 11 Memorandum clearly directed

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welds identified as defective during inspections and repaired pursuant to the resultant repair documentation.

Applicants to provide information on repair of all welds, not solely weave welds. Applicants submit that this is not the case. The stated basis for the October 11 request for information was a CASE proposed finding which quoted testimony from Mr. Stiner related solely to repair of weave welds. (Board Memorandum of October 11 at 1. See also Applicants' October 25 Response at 1-2.) The paragraph preceeding and the sentence leading into Judge Bloch's October 11 request was tied directly to the weave welding issue and did not even remotely imply a concern with all welds. Indeed, there has never been an identified issue in the case related to the repair of all welds.[2] Further, during the hearings when CASE attempted to expand issues to include the repair of other welding, the Board sustained objections in this regard.[3] In short, Applicants submit that a fair reading of the

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2 In this regard, the Board states that because of Applicants' unresponsiveness, Applicants are exposed "to a possible adverse finding unless this lack of responsiveness is promptly remedied by Applicants or is adequately addressed by Staff." (October 29 Memorandum at 1.) In that repair of all welds has never been identified as an issue in this case or raised sua sponte by the Board, Applicants submit that a "finding" on this issue would be, in any event, unnecessary and unwarranted.

3 See e.g., Tr. 12205-06 where the following discussion occurred:

> MR. REYNOLDS: May I ask for a clarification from the Board?
>
> We seem to be talking in general about the grinding of welds at Comanche Peak, as opposed to the grinding of welds that may have been in excess of four core wire diameters.
>
> It seems to me that this line of cross-examination is not relevant to the issue before the Board.
>
> JUDGE BLOCH: Well, are you going to go much further with this?

(footnote continued)

October 11 Memorandum leaves little doubt that it did not clearly relate to all welds as the Board states in its October 29 Memorandum.

The second reason that the Board provides for its position that Applicants were unresponsive is the Board's apparent view that its October 11 Memorandum clearly directed Applicants to provide information on "in-process" corrections of welds (i.e., corrections performed by a welder in the normal course of making the weld) instead of repairs performed in response to a deficiency discovered and reported by QC. Applicants submit that this is not the case. Neither, the Board's October 11 request nor the proposed finding on which it was based mentions "in-process" repairs. Further, the precise wording of the October 11 request for information clearly leaves the impression that the

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> MS. ELLIS: I don't think much further, but I think there is some concern, because I'm not sure that it's clear or can be clear which welds were ground down because they were over four core wire diameter and which might have been ground down for some other reason.
>
> JUDGE BLOCH: Let's keep in mind that that's the relevance, and if you have other questions, let's ask them. But otherwise, let's progress.
>
> BY MS. ELLIS:
>
> Q Mr. Taylor, do you have personal knowledge or have any reason to believe that any QC welding inspector might have been concerned about the number of welds that were ground down at Comanche Peak?
>
> MR. REYNOLDS: Same objection. It goes beyond the scope of direct. It's not relevant to the issue before the Board.
>
> JUDGE BLOCH: That is irrelevant.

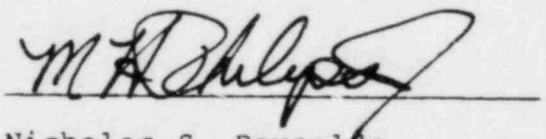
request relates to repairs resulting from QC inspections. For example, the October 11 request continuously refers to "repair" of "defects" or "defective" welds. Technically, a weld cannot be "defective" until completed and a weld cannot be said to contain a "defect" until judged deficient by QC inspection. Affidavit of W.E. Baker at 4, attached ("Baker Affidavit"). In short, the words of the October 11 request do not clearly relate to "in-process" corrections.

Applicants note that irrespective of the precise wording of the request, the possibility that the request dealt with in-process welding was not even considered by Applicants. To consider such a possibility suggests that, contrary to welding codes, welding expertise and indeed the entire welding industry, whenever a welder performs any of the numerous, routine in-process corrections the welder is trained to do (e.g., cleans slag off a pass or grinds out porosity, slag or an undercut), the welder should be required to stop and obtain a QC inspection to assure it was acceptable to continue. Mr. Baker's affidavit shows that this clearly is not feasible and has never been required. (Baker Affidavit at 4.)

From the foregoing, Applicants submit that the October 11 Memorandum did not clearly request information relating to either in-process welds or repair of all welds. In sum, Applicants were not unresponsive to the Board's request made in the October 11 Memorandum and the Board's criticism is not proper. We must again point out the inherent unfairness in a procedure which allows an active participant (in this case the Board) to request

discovery and then, when in good faith a question arises as to the scope thereof, to rule upon the clarity, meaning and relevancy of its own request without ever having heard the side of the responding party. Given that the Board may have such discretion, we believe that at the very least when the Board assumes such a posture and finds itself in conflicting roles, it should exercise restraint in openly criticizing a party's lack of responsiveness under such circumstances.

Respectfully submitted,



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November 9, 1984