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May 10, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

In the Matter of)
TEXAS UTILITIES ELECTRIC)
COMPANY, et al.)
(Comanche Peak Steam Electric)
Station, Units 1 and 2))

Docket Nos. 50-445
50-446
Docket Nos. 50-445/2
50-446/2

'85 MAY 13 P2:03

OFFICE OF SECRETARY
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NRC STAFF COMMENTS ON APPLICANTS' PROPOSED CASE MANAGEMENT PLAN

I. INTRODUCTION

Applicants have filed a "Proposed Case Management Plan" (April 26, 1985) ("Applicants' Case Management Plan"), which set forth the Applicants' proposed procedure for defining the scope of issues requiring resolution in the two CPSES dockets.

With regard to the intimidation/harrassment docket (Docket No. 2), Applicants propose that no later than 15 days after the issuance of the Staff's QA/QC SSER, Applicants will file a statement setting forth what issues regarding intimidation that they believe need not be further litigated, together with a statement of reasons for their position. Applicants' Case Management Plan, p. 3. Applicants propose that CASE respond to Applicants' statement of issues 15 days after the Applicants' filing, and that the NRC Staff ("Staff") respond to both Applicants' and CASE's filings 10 days after CASE has filed its response. Id., p. 4.

With regard to the principal docket on Contention 5, Applicants propose that they file a statement on issues currently in contention and raised by the TRT and its SSERs, together with "the plan formulated by

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the Applicants for dealing with each such concern." Applicants' Case Management Plan, p. 4. As in the intimidation docket, CASE would have 15 days to respond to Applicants' filings, and the Staff would have 10 days from CASE's response to respond to Applicants' and CASE's filings.

The Staff hereby provides its comments on Applicants' Case Management Plan.

II. BACKGROUND

Litigation in both dockets of this proceeding has been suspended since the early part of this year, in large part due to a number of events and actions by the Staff and the Applicants. The Staff has issued SSER Nos. 7, 8, 9 and 10, which present the TRT's findings and conclusions in the areas of electrical/instrumentation and test programs, civil and structural issues, protective coatings, and mechanical/piping issues. As discussed above, a final SSER concerning the TRT's evaluation of QA/QC at CPSES will be issued in the near future. On the issues of design and design QA, the Staff has held several meetings with Applicants and Cygna Energy Services. Cygna has separately notified the parties that it is re-evaluating its findings set forth in its Phase I and II, and Phase III Reports.^{1/} In the area of intimidation, the Staff's independent consultant, EG&G, Idaho, will be issuing a supplement to its

^{1/} See, e.g., March 14, 1985 meeting transcript; letter from Cygna to J.W. Beck, TUGCO (April 4, 1985), enclosing Review Issues List ("RIL").

original (September 1984) report on intimidation and harassment at CPSES. The Staff panel on intimidation (see Board Notification 85-04, attaching a December 24, 1984 Memorandum from William Dircks) is also expected to issue a report setting forth their findings.

A number of actions by the Applicant have also changed the posture of this proceeding. Applicants have made some changes in their management. ^{2/} Applicants have also formed a "Comanche Peak Response Team" ("CPRT") to respond to the TRT's concern identified in the TRT SSERs, as well as the design and design QA issues. ^{3/} Applicants have also requested that the Board defer consideration of Applicants' summary disposition issues on design and design QA. ^{4/}

Finally, CASE transmitted a letter to the Board and parties, which requested that a face-to-face scheduling conference be held. Letter from Anthony Roisman to Board (April 16, 1985). CASE subsequently provided a more detailed list of issues to be discussed during such a conference call, in response to the Board's request that CASE identify specific items for discussion. Letter from Anthony Roisman to Board (April 17, 1985). The Applicants and the Staff responded to CASE's proposals by letters of April 22, 1985 and April 26, 1985, respectively. Applicants then filed their proposed Case Management Plan.

^{2/} Several of these changes in management have been reported in a letter from Robert Wooldridge to the Board (March 21, 1985), pp. 2-3, item 8.

^{3/} See Applicants' Case Management Plan, pp. 2-3.

^{4/} Letter from Robert Wooldridge to Board (March 21, 1984), p. 3, item 9.

III. DISCUSSION

The Staff agrees with Applicants that a procedure for resolving the scope of issues to be litigated is necessary in order to conduct the proceeding in a fair and expeditious manner. Applicants' Case Management Plan appears to outline a reasonably straightforward and fair procedure for defining the scope of issues in both dockets, in light of the changed circumstances in this proceeding. However, the Staff differs with Applicants' Case Management Plan on two points: (1) the event that triggers the time for filing of Applicants' Statement of Issues in the intimidation docket; and (2) time period for the Staff to respond to Applicants' and CASE's filings.

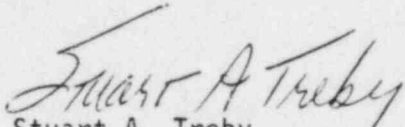
On the first issue, the Staff points out that the most important Staff documents in the intimidation docket are the EG&G supplementary report on intimidation, and the report of the Staff panel on intimidation. For this reason, the Staff submits that the triggering event for defining issues in Docket No. 2 should be the issuance of both of these Staff documents, rather than the TRT SSER on QA/QC.

The time period allotted to CASE and the Staff for response to Applicants' filing is very limited. The adequacy of response time will depend on the scope and complexity of Applicants' statement of issues and their CPRT response plan, as well as the issues raised in CASE's response. Until the staff has Applicants' statements and response plan, it is without a basis to agree with the proposed response schedule or to propose an alternative.

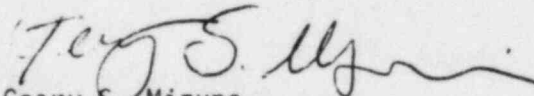
IV. CONCLUSION

The Applicants' proposed Case Management Plan, except in two respects, represents a fair and meaningful method for expeditiously defining the scope of issues to be litigated in this proceeding. Accordingly, the Board should adopt the Applicants' Case Management Plan as modified in accordance with the Staff's discussions above.

Respectfully submitted,



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Dated in Bethesda, Maryland
this 10th day of May, 1985

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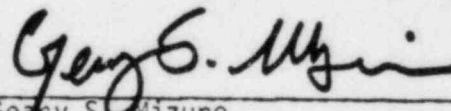
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