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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'88 APR -6 P3:06

Before Administrative Judges:
Peter B. Bloch, Chair
Dr. Walter H. Jordan
Dr. Kenneth A. McCollom

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In the Matter of]	Docket Nos. 50-445-OL2
]	50-446-OL2
Texas Utilities Electric Co., <u>et al.</u>]	ASLBP No. 79-430-C6-OL
]	
(Comanche Peak Steam Electric Station, Units 1 and 2)]	April 5, 1988
]	
]	

In the Matter of]	Docket No. 50-445-CPA
]	
Texas Utilities Electric Co., <u>et al.</u>]	ASLBP No. 86-528-02-CPA
]	
(Comanche Peak Steam Electric Station, Unit 1)]	April 5, 1988
]	
]	

MEMORANDUM AND ORDER

MEMORANDUM
(Motion to Consolidate)

Texas Utilities Electric Company et al. (Applicants) and the Staff of the Nuclear Regulatory Commission (Staff) have asked us to consolidate the Operating License and Construction Permit Amendment cases, largely based on an "alleged overlap of significant issues dependant on the same body of evidence for resolution" and on the belief that consolidation "would be conducive to the proper dispatch of business and to the ends of justice." The respective filings were made on March 8 and March 30. They were carefully prepared and contain numerous citations in support of the standards for consolidation.

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Citizens' Association for Sound Energy (CASE) opposes the motion to consolidate. Since it is the principal authority on what it plans to litigate in the CPA case, we were impressed by its tightly reasoned description of the relationship between the two cases and we were persuaded that there is no need at this time to consolidate the cases. The following were particularly cogent arguments that were relied on by the Board in reaching its conclusion:

. . . CASE suggests that following the conclusion of the submission of all evidence in the OL proceeding, the Board hold a prehearing conference to set for hearing the CPA docket, at which time CASE would designate the evidence upon which it intends to rely in the CPA proceedings and specify those witnesses whom CASE intends to call.

* * *

CASE envisions the CPA proceeding as a relatively narrow and focused hearing going beyond information contained in the OL to determine the motive for management decisions. (CASE'S ANSWER TO APPLICANTS' 3/8/88 MOTION TO CONSOLIDATE PROCEEDINGS, March 30, 1988 at 11.)

We also were persuaded by the following language, used by

CASE:

Since the object of the OL proceedings is to establish what the mistakes were, the extent and depth and breadth of the mistakes and whether they have been satisfactorily corrected, it follows that an inquiry into motive and repudiation only makes sense where the mistakes have been identified and recognized by admission or Board findings. (Id., at 9.)

Applicants' Motion to Consolidate Proceedings shall be denied. We are explicitly not deciding whether the CPA proceeding may become moot should construction be completed before the time for a hearing arrives.

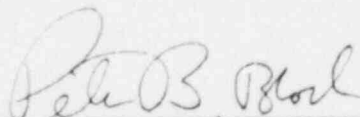
ORDER

Upon consideration of the filings of the parties and the entire record in this matter, it is this 5th day of April 1988

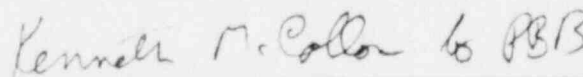
ORDERED

Applicants' Motion to Consolidate Proceedings, filed March 8, 1988, is denied.

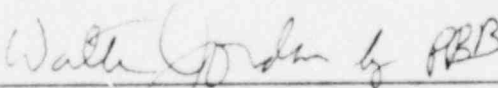
THE ATOMIC SAFETY AND LICENSING BOARD:



Peter B. Bloch, Chair
Administrative Judge



Dr. Kenneth A. McCollom
Administrative Judge



Dr. Walter H. Jordan
Administrative Judge

Bethesda, Maryland