

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

before the

'87 FEB -9 A10:36

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)

TEXAS UTILITIES ELECTRIC)
COMPANY, et al.)

Docket No. 50-445-CPA

(Comanche Peak Steam)
Electric Station, Unit 1))

PERMITTEES' RESPONSES (AND MOTION FOR
PROTECTIVE ORDER) TO INTERVENOR
MEDDIE GREGORY REQUESTS FOR PRODUCTION
(Set 5)

Pursuant to 10 CFR sec 2.741, the Permittees hereby
respond to the Request for Production of Documents served by
the Intervenor Meddie Gregory on December 30, 1986.

RESPONSES

No. 1. Permittees will produce the document
described by Gregory Request No. 1, in accordance with the
procedures for the production of Comanche Peak documents
established in the Operating License Proceeding, Docket Nos.
50-445-OL and 50-446-OL.

No. 2. Permittees object to producing the documents
described by Gregory Request No. 2 on the grounds that it (1)
seeks privileged information constituting the work product of
TU Electric, its affiliates, and its attorneys which work

product has been created in anticipation and contemplation of the litigation of issues and remedies falling outside the jurisdiction of the ASLB and the NRC; and (2) seek privileged information concerning the identities, mental impressions, opinions and work product of consulting experts retained in anticipation and contemplation of the litigation of issues and remedies falling outside the jurisdiction of the ASLB and the NRC.

No. 3. Permittees object to producing the documents described by Gregory Request No. 3 on the grounds that it (1) seeks privileged information constituting the work product of TU Electric, its affiliates, and its attorneys which work product has been created in anticipation and contemplation of the litigation of issues and remedies falling outside the jurisdiction of the ASLB and the NRC; and (2) seek privileged information concerning the identities, mental impressions, opinions and work product of consulting experts retained in anticipation and contemplation of the litigation of issues and remedies falling outside the jurisdiction of the ASLB and the NRC.

No. 4. Permittees object to producing the documents described by Gregory Request No. 4 on the grounds that Gregory Interrogatory 5 and each subpart thereof inquires in

detail as to matters which have absolutely nothing to do with the sole Contention in this docket, *i.e.*, that the "delay of construction of Unit 1 was caused by Applicants' intentional conduct which had no valid purpose and was the result of corporate policies which have not been discarded or repudiated by Applicants." The broad discovery demanded by Interrogatory No. 5 and its derivative counterpart, Gregory Request No. 4, is wholly outside the scope of these licensing proceedings and appear instead to constitute a fishing expedition for material only related to Intervenor's participation in rate cases before the Texas Public Utility Commission. Same is, therefore, not a legitimate purpose for discovery pursuant to 10 CFR sec. 2.740b. To permit the Intervenor to engage in global discovery on such wholly unrelated matters is contrary to the purpose and intent of this Commission's rules and would operate to the prejudice of TU Electric and other parties who may be involved in rate cases before the Texas Public Utility Commission. It is therefore wholly unjustified and unnecessary and should not be permitted by this Board. The retrospective management audit referenced in the attachment to the December 23, 1985 letter from Robert A. Wooldridge to Foster DeReitzes was not commissioned for the purpose of addressing the type of issue as specified in the sole currently admitted Contention in this docket and none of the discovery requests relating

thereto have been properly focused upon such Contention before this Board. Furthermore, this Board previously determined in Docket 50-445-OL and 50-446-OL that discovery requests of this type, and directed to the same audit, should not be permitted to be used as a fishing expedition for material relevant only to Public Utility Commission issues (see Board's Memorandum and Order of July 22, 1985, "Motions Related to the MAC Report").

Permittees further object to Interrogatory Number 5, and this its derivative counterpart, on the grounds that they are overly broad and unduly burdensome by seeking general and unparticularized discovery which exceeds the proper boundaries for discovery of matters related to this docket by interrogating into the preparation for the litigation of issues and remedies falling outside the jurisdiction of the NRC and this ASLB.

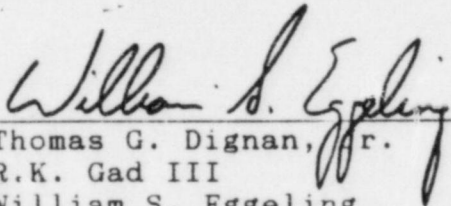
Permittees further object to producing the documents described by Gregory Request No. 4 on the grounds that it (1) seeks privileged information constituting the work product of TU Electric, its affiliates, and its attorneys, which work product has been prepared in anticipation and contemplation of the litigation of issues and remedies falling outside the jurisdiction of the ASLB and the NRC; and (2) seeks

privileged information concerning the identities, mental impressions, opinions and work product of consulting experts retained in anticipation and contemplation of the litigation of issues and remedies falling outside the jurisdiction of the ASLB and the NRC.

MOTION FOR PROTECTIVE ORDER

To the extent required by 10 CFR 2.740(f), the Permittees move for a protective order on the basis of the objections set forth hereinabove.

TEXAS UTILITIES ELECTRIC COMPANY



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CERTIFICATE OF SERVICE

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I, William S. Eggeling, one of the attorneys for the Permittees herein, hereby certify that on February 3, 1987, I made service of the within documents by mailing copies thereof, postage prepaid, to:

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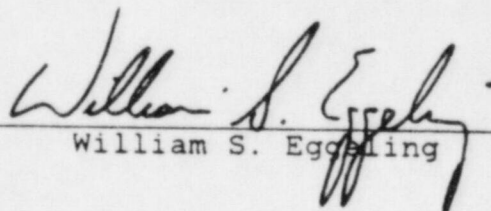
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