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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before Administrative Judges:

'86 NOV -3 P3:21

Peter B. Bloch, Chairman
Dr. Kenneth A. McCollom
Dr. Walter H. Jordan

OFFICE OF SECRETARY
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BRANCH

SERVED NOV 3 1986

In the Matter of

Docket No. 50-445-CPA

TEXAS UTILITIES ELECTRIC COMPANY, et al.

ASLBP No. 86-528-02-CPA

(Comanche Peak Steam Electric Station,
Units 1 and 2)

October 31, 1986

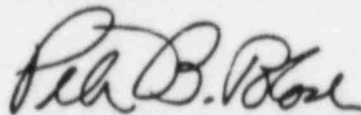
MEMORANDUM AND ORDER

MEMORANDUM
(Errors in Yesterday's Order)

Please correct yesterday's order by:

1. Changing the docket no., on page one, so that the letters "OLA" are changed to "CPA".
2. Changing the phrase, near the bottom of page 9, from "Board find" to "Board finds."
3. Adding the attached pages as an appendix.

FOR THE
ATOMIC SAFETY AND LICENSING BOARD



Peter B. Bloch, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland

APPENDIX A

Bases for Amended Contention 2

- A. The corporate policy that caused the delay was:¹
1. Applicants deliberately refused to take positive action to reform their QA/QC program in the face of consistent criticism, and
 2. Applicants have failed to properly design their plant, specifically:
 - a. Applicants failed to correctly apply fundamental engineering principles,
 - b. Applicants failed to properly identify unique designs in their PSAR,
 - c. Applicants constructed much of their plant prior to its design having been completed,
 - d. Applicants have failed to comply with 10 CFR Part 50, Appendices A and B, including their failure to promptly identify and correct design deficiencies, and deliberately refused to take positive action to correct such deficiencies.
 3. Applicants ignored consistent criticism of their QA/QC program over a period of at least ten years and of their design over a period of at least four years, in the face of warnings by independent auditors, the NRC, and even the Atomic Safety and Licensing Board. As a result of these deliberate actions, Applicants built an unlicensable plant which must now be reinspected, redesigned, and reconstructed in the hope that it can be made licensable. There is no valid purpose given by Applicants for why, in the face of these criticisms, they refused to change their QA/QC implementation or address and correct design deficiencies.

¹ Although it is not a lawful requirement that an intervening party must disclose as a condition for admission of a contention any evidence that supports its bases, Consolidated Intervenor's do direct the attention of the Board and the parties to, and incorporate by reference, Appendix B of CASE's Motion for an
(Footnote Continued)

B. Applicants have never acknowledged that this or any other corporate policy was the cause of the delay or that anything in the control of corporate management caused the delay, and thus Applicants have never discarded or repudiated the policies that caused the delay. This basis is supported by the absence of any statements of repudiation and of any stated intent to discard any corporate policy.

C. Applicants have actually continued in place the corporate policies and personnel primarily responsible for the original delay.

1. The people running the plant now are most of the same persons who made the original decision to ignore the legal requirements for building the plant in order to build it faster. Applicants' September 16, 1986, Supplementation to Answers to CASE's Interrogatories to Applicants (August 27, 1986).
2. Applicants' redesign, reinspection, and reconstruction program is in fact a continuation of the previous corporate policies which caused the delay. In particular:
 - a. The CPRT is not sufficiently independent from TUEC since all judgments on the safety significance of deficiencies and disposition of NCRs, design changes, and reconstruction are made by TUEC personnel, many of whom, like Messrs. Tolson, Brandt, Purdy, and Finneran (all now employed at CPSES), made the original judgments that allowed the deficient conditions to exist.
 - b. CPRT reinspections are being conducted without complying with Appendix B, thus making trending, documentation, and any verification of the work performed impossible.
 - c. The CPRT program has not been fully approved by the Staff but has been modified at least three times, apparently

(Footnote Continued)

Evidentiary Standard (February 4, 1985) which contains references to documents supporting Consolidated Intervenors' bases.

without going back to redo work conducted under the rejected plans.

- d. The CPRT implementation has violated CPRT standards for reinspections, including the use of production quotas for inspectors and harassment and intimidation of inspectors.
- e. The work that Applicants propose to conduct under the extended construction permit represents major changes in the original proposed construction and design and cannot be lawfully undertaken unless the construction permit is amended. No such amendment has been sought or received. This policy of ignoring the procedural requirements of the NRC regulations has caused many problems, including a construction work halt to await staff approval of the proposed extension of the construction permit, which Applicants had allowed to expire without seeking a renewal.

D. In order to establish that they have discarded and repudiated the corporate policies that led to the delay, Applicants must adopt and implement a redesign, reinspection, and reconstruction program that contains at least the following elements, which are now missing from the CPRT program:

1. full independence from all current and former CPSES employees.
2. stop work on construction and on reinspection of construction until reanalyses and redesigns have been completed and the designs have been approved as acceptable by the hearing board.
3. existence and implementation of a QA/QC program for reinspection, redesign, and reconstruction that complies with 10 CFR Part 50, Appendix B,
4. full documentation that fundamental engineering principles have been correctly applied in the reinspection, redesign, and reconstruction process,
5. full documentation that all previously identified design issues (including, but not limited to, the Walsh/Doyle allegations and concerns raised by Cygna or during the Cygna hearings) have been correctly identified and properly addressed,

6. hold points in the reinspection, redesign, and reconstruction process to enable staff, public, and Board review of the previously completed tasks, and
7. full public access to all documents generated by the process, transcription of all meetings, and public attendance at those meetings.