UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

CASE'S ANSWER TO APPLICANTS' 8/20/87
MOTION FOR ESTABLISHMENT OF SCHEDULE

Pursuant to 10 CFR 2.730(c), Intervenor CASE hereby files its Answer to Applicants' 8/20/87 Motion for Establishment of Schedule /1/. For the reasons stated herein, CASE opposes Applicants' Motion for Establishment of Schedule at this time as being premature, misleading, impractical and inefficient, and inherently flawed. CASE also opposes the specifics of Applicants' proposed schedule and is offering its own proposal herein.

Background

In January 1985, the ongoing hearings were suspended, at Applicants' request /2/. Since that time the Applicants have embarked upon a series of complex, confusing, and iterative reinspection and corrective action programs affecting virtually every aspect of the Comanche Peak plant design and construction.

/1/ This answer is being filed today in accordance with the Board Chairman's ruling during a 9/23/87 conference call among the parties.

/2/ See letter from Robert Wooldridge to Judge Peter Bloch, January 30, 1985; and statement of Michael D. Spence, President of TUEC, at public meeting January 17, 1985.

The original reinspection program, the Comanche Peak Response Team (CPRT), Rev. 0, was initiated on October 8, 1984. Its stated purpose was to do a "thorough and complete review of the safety-related issues identified by the [NRC's] TRT, and to resolve those issues which would affect the safe operation of the Comanche Peak units," (Rev. 0, at 15). At the time the program began, Texas Utilities intended to rely on it only to prove "that a safety basis exists to support authorization for fuel loading and pre-critical testing at Comanche Peak Unit 1 . . ." (letter from M. Spence to D. Eisenhut, October 8, 1984, page 4).

Almost immediately, without NRC Staff approval of the plan, Texas Utilities began to implement reinspections under the CPRT umbrella.

After receiving critical comments from CASE and the Staff, the Applicants issued Revision 1 of the Program Plan and hired two allegedly independent companies to work on design review and construction QA/QC review.

In January 1985, the NRC issued a letter to Texas Utilities identifying significant problems with the construction QA/QC program at the plant. The Applicants requested a suspension of the hearings and subsequently modified the CPRT again, issuing Revision 2 on June 28, 1985, and later issued Revision 3 on January 25, 1986. The NRC Staff still had not approved the Applicants' reinspection program, yet TUEC proceeded under the CPRT -- allegedly at their own risk.

According to the Plan itself, the purpose of Revision 2 was as stated in a June 28, 1985 cover letter from TUGCO's W. G. Counsil to NRC Staff's Vince Noonan:

> The overall charge to the Comanche Peak Response Team (CPRT) is to advise TUEC management whether there is reasonable assurance that Comanche Peak can be operated without undue risk to the

public. Additionally, CPRT shall respond to and recommend resolution for IRT and ASLB issues and remaining open SSER, CAT, SIT, IAP and certain Region IV issues.

The June 28, 1985, version of the CPRT incorporated a self-initiated evaluation program that was being conducted for the purpose of:

> . . . assuring TUEC management of the safety of the plant regardless of the extent to which issues might have been raised by External Sources. (I. INTRODUCTION - OBJECTIVES, Page 1 of 22.)
>
> . . . The result of this work [the self-initiated effort in the quality of construction area] will be a global reassurance of no undetected safety-significant hardware deficiencies; while the effort is undertaken primarily so that CPRT can provide assurance to TUGCO management, it will upon implementation moot any issue that has been or could have been raised about the quality of CPSES construction.
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> . . . The result of this work [the self-initiated effort in the design adequacy area] will be global reassurance of no undetected safety-significant design deficiencies. (IV. PROGRAM STRUCTURE AND METHODOLOGY, Page 14 of 22.)

Against this backdrop, the Applicants filed their first Motion for Establishment of Schedule (March 21, 1986). Their March, 1986, motion requested that there be a self-executing schedule which would automatically go into effect upon the day any results report was made available to the parties and the documentation in support of the results report was made available for review.

The motion was opposed by CASE, and ultimately the Board ruled that:

> Fairness, however, dictates that CASE not be deprived of the right to control the presentation of its own case in its own way. A reason fairness lies so clearly on CASE's side is that it has already twice prevailed in this proceeding. It prevailed in December 1983 when we found that the Applicants had not sustained the burden of proof with respect to the safety of design of their plant. It prevailed again when Applicants decided to withdraw all of their filings made pursuant to their approved plan by which they were attempting to demonstrate the inadequacy of the Board's findings about design. At this point, procedural fairness requires that the side that has twice prevailed have the opportunity to suggest a workable schedule that will give it control over the presentation of its case. (Memorandum and Order (Scheduling of Hearings), June 12, 1986, at 2.)

Following an August 18 and 19, 1986, prehearing conference and ruling by the Board, CASE intended at that time to complete discovery on the CPRT regarding construction and QA/QC of construction within a short time period and write summary judgement motions on those portions or aspects of the plan which even if implemented properly would not resolve the issues before the Board regarding the construction and QA/QC of construction of the plant.

Between September 11 and 18, 1986, CASE did file twelve sets of interrogatories to the Applicants and on September 22, 1986, to the Staff, and on September 23, 1986, did notice the depositions of certain individuals with relevant knowledge of the program plan and its implementation. CASE also did conduct discovery on ISAP's I.a.4. and I.b.2., and further did examine the results reports and supporting documentation of ISAP's as they became available throughout the spring and summer of 1986.

In the late summer of 1986, CASE received the quality instructions and attribute checklists that detail the procedures being followed under all aspects of the CPRT program.

Finally, CASE has received Applicants' answers to the Board's questions on all of the ISAP's for which answers have been provided /3/.

/3/ The inference of the Applicants' pleading is that CASE has ignored those ISAP's that have been issued beyond the first ten that were examined. The inference is that CASE has had continuous access for some time to most necessary information and documents (ignoring the fact that CASE has often had to fight to obtain information which we deemed important). It further gives the impression that the time is therefore now ripe for hearings and that, unless a schedule for hearings is immediately set forth and begun, unnecessary and extensive delay will occur.

The fact is that Applicants' programs and other activities are at this time perhaps the most confused and confusing that they have ever been in this already extremely complex case, with neither the

(Footnote continued on page 5)

In the spring of 1986, TU began a program on design issues described in eleven Generic Issues Reports. The first of these was issued July 9, 1986. These were envisioned, at the time of their inception, to be "proposed methods for assuring resolution to external source issues" (July 9, 1986, letter TXX-4898 from TUGCO's W. G. Counsil to NRC Staff's Vince S. Noonan, regarding pipe stress analysis and pipe support design, sent to Board under cover letter from Applicants' counsel Mr. Wooldridge dated July 9, 1986).

Notwithstanding all the review of the CPRT, its adequacy or inadequacy and the resultant reports and conclusions, the Applicants began a new

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/3/ (continued from preceding page):
Intervenor nor the NRC Staff at all certain exactly what Applicants are doing, under what program they are doing it, how portions of the now-many various programs (some of which have only recently even been named, much less explained or documented) interface, what portions of the many various plans and/or their results will be relied upon by Applicants to attempt yet again to prove their case for licensing Comanche Peak. It is not at all clear what kind of mixed-up hybrid unapproved conglomeration they currently plan to rely on. Even more in doubt is what Applicants will rely on when the time is actually ripe for hearings. As recently as yesterday, the following public comments indicating a heretofore unannounced five-month slippage were attributed to Applicants' John Beck:

> Beck said the reinspection is concluding, and that re-evaluation of the plant's design and engineering is expected to be finished by 1988. Work to correct problems found in the design and original construction is expected to be finished in August. Beck said the plant should then be ready to load fuel.
>
> The repairs originally were scheduled for completion in March. Beck said it is possible some of the time can be made up. But if the schedule slips any further, he said the projected date of early 1989 for commercial operation of the plant's first unit will be impossible to meet. (FORT WORTH STAR-TELEGRAM, Sunday, September 27, 1987.)

Contrary to the inference of the Applicants, CASE has been diligently at work (as indicated in our Progress Reports). With regard to the ISAP's, much of the discovery which CASE would have had to undertake was reduced or eliminated by Applicants' Board-ordered answers.

approach to the problems at Comanche Peak. They did so without informing the Board or the parties of the significance of their new approach. It was not until an April 2, 1987, meeting between the Applicants and the Staff that CASE first understood the significance of the new program. It should be noted that it was not the Applicants' affirmative disclosure about the significance of the program but rather the deduction by CASE about the new program. That deduction was stated by CASE at the meeting as follows:

> . . . I am going to leave this meeting under the assumption that the DVP has become or is going to be an integrated document which allows the utility to have assurance on both design and construction and to state that there is no generic implications on -- coming out of that DVP, that have not been fully resolved and fed back into the program. If that's not the case, I would like to see that clarified, because that's the understanding that I now of (sic -- should be: have). Anything that you found along the way is now fed into the DVP. You are going to stand on the DVP to give reasonable assurance. (Statement of Ms. Garde, April 2, 1987, meeting, Tr. page 57.)

By this time, the additional roles of Stone & Webster, Ebasco, Impell, TERA, and other consulting firms -- all operating under their own procedures and procedural formats as well as TU's -- began to increase the complexity of the program beyond manageable and comprehensible dimensions.

In January 1987, two years after the suspension of hearings, after the majority of discovery on the CPRT Plan regarding construction and QA/QC for construction was completed, Applicants formally acknowledged that there was to be a Revision 4 to the CPRT. That Revision was not published until June 18, 1987.

Significantly, Revision 4 changed the Plan's purpose from providing assurance that the plant has been designed and constructed in accordance with 10 CFR, Part 50, Appendix B, to providing assurance that all undetected and uncorrected safety significant deficiencies would be found and corrected such that the plant could operate without endangering public

health and safety (Revision 4, PROGRAM PLAN, FOREWORD TO REVISION 4, page 2 of 8, and changes in Revision 4, passim).

(No revisions to the CPRT procedures were provided to CASE, so presumably the methodology the CPRT was employing to reach a different purpose was through implementation of the same procedures.)

The Applicants also began to informally discuss their Corrective Action Program (CAP), with the NRC Staff. In April 1987, the Applicants presented a description of the plan to the Staff. Although CASE representative Billie Garde received no direct answer to her questions on any subject, and indeed TU officials refused to answer (see transcript of April 2, 1987, meeting between the Applicants and the Staff, Tr. page 57), it became obvious to CASE at that meeting that the CPRT had basically concluded its work and that the only remaining work was writing the final results reports and winding up work on the written report of collective evaluations and root cause/generic implications as contained in ISAP VII.c and Collective Significance/ Collective Evaluation Reports.

However, the Applicants began to describe a mammoth corrective action program that had not in April 1987 been shown to or shared with anyone -- either CASE or the NRC Staff.

It was clear at that meeting that the envisioned finality of the CPRT program had been abandoned. In short, the CPRT was no longer the document (and program) upon which the plant would be licensed.

In May 1987, CASE tabled the motion for summary judgement work until receipt of Revision 4, until CASE could reach a better understanding of the new CAP and its various components /4/, and to determine whether further

/4/ It is not at all clear to us if CASE, even now, knows what all the components are, and it assuredly does not know how they all work together.

work on the CPRT Plan would be moot. CASE's actions in this regard were discussed in depth with the Applicants and the NRC Staff.

When Revision 4 arrived in late June 1987, CASE shortly thereafter completed its review of the programmatic changes relevant to the CPRT Plan regarding construction and QA/QC of construction. CASE anticipated that there would be extensive discussion and clarification during a scheduled July 29 and 30 meeting between Applicants and the NRC Staff regarding Revision 4, and CASE was prepared to participate to the extent allowed and to formulate our plans for completion of the work on the motion for summary judgment based in large part upon what we learned at that meeting. But at the public meeting at the end of July, the Applicants presented to the Staff not an update of the CPRT progress as planned but an overview of the new Corrective Action Program (CAP), et al. This meeting confirmed that the CAP, et al., would be the basis upon which licensing decisions would be made.

CASE had proceeded on the basis of what Applicants had represented until that time that they would rely upon to attempt to prove their case (i.e., the CPRT). Once CASE deducted that Applicants were changing not just some details of the CPRT Plan but rather that they were changing -- once again -- their latest "get well" plan itself, CASE realized that we needed additional information before proceeding with the summary judgment motion. We hoped to have this clarified at the July 1987 meeting, but instead Applicants basically skipped right over Revision 4 for the most part and discussed something totally different.

Unfortunately for everyone, the presentation was not very definitive and made references to programs and pieces of programs that were unheard of by the Staff and by CASE (see transcript of July 29 and 30, 1987, meeting,

Volume I, Tr. page 2 et seq.; see also attached DALLAS TIMES HERALD article dated August 1, 1987, "Comanche Peak rework plan baffles agency").

What is absolutely clear at this point is that Applicants are not going to rely principally on the CPRT Plan, and it is unknown what part of the CPRT they are going to rely on (whether it be essentially nothing but general overview, a specific part or a specific ISAP, Results Report VII.c, or exactly what). It is also clear that, whereas Applicants had previously said that they were going to rely on the CPRT to prove that the original program worked, they have now said that they are going to rely on the CAP to show only that undetected and uncorrected deficiencies have been found and are no longer going to try to prove that the original program worked. It appears obvious to CASE that it would be impossible for Applicants to prove that the original program worked because it did not, and Applicants now know that too (although they have not yet, and may never, admit it).

Subsequent to the meeting, the Applicants have provided to the Staff (with one copy to Mrs. Ellis, but not to the Board or service list) three documents which purport to set forth the CAP and its various components, a description of the program, and a statement of how the program is envisioned to work in providing a basis of facts on the safety of the plant upon which the Applicant is prepared to operate the plant in the event that it gets a license. Those documents, dated August 20, August 28, and September 8, 1987, were not served on the Board, the parties or the service list; they were among the five documents specifically recommended by CASE for the Board's consideration at page 10 of its 9/14/87 Progress Report (VII). And even during the final preparation of CASE's instant pleading, on Friday, September 25, 1987, CASE's Mrs. Ellis received one copy of an additional document attaching the "Post Construction Hardware Validation Program

Attribute Matrix." (Copies are attached hereto of the August 28 cover letter, the September 8 letter, and the September 25 cover letter.)

CASE has not had time to thoroughly review these documents and has at this time reviewed them primarily for preparing this response. None of the procedures or checklists or attribute checklists or criteria were provided by the Applicants in the filings /5/.

Against all of this confusion about what the Applicants are doing and for what purpose, they have filed this Motion for Establishment of Schedule.

1. The Motion Is Premature

The Applicants' request suggests that the issues to be tried in this case have somehow changed over the past two-and-a-half years from the extent of the quality control/quality assurance breakdown, the causes for that breakdown, and the implications for that breakdown to something else. They have confused the interest of CASE to litigate the programmatic aspects of the CPRT with the intent of CASE to prove that the CPRT could not provide a basis of fact to overcome the evidence on the record that there had been a

/5/ CASE believes that much of the discovery which would normally be necessary and proper on this new and significant information can be cut down considerably -- assuming cooperation by the Applicants -- through the taking of depositions which were previously anticipated to be only on the scope of the CPRT. Such depositions now must include, and CASE assumes that the Applicants are prepared for CASE to inquire at the depositions, to what extent the CPRT is going to be relied on by the CAP and to what extent the CPRT and/or the CAP is going to perform a basis for licensing. CASE believes that it is absolutely essential (especially if we are to lessen what would otherwise have to be extensive discovery) that Applicants see to it that those individuals CASE deposes will be so prepared to answer those questions. These depositions could provide CASE with the opportunity to discover (in an expedited fashion) to what extent our anticipated motion for summary judgment may be appropriate.

pervasive breakdown in the QA/QC program at Comanche Peak such that it could not be licensed.

CASE's interest in this regard has been and continues to be, as we have repeatedly stated, to have the Board reach a determination on the extent of the breakdown, the causes of the breakdown, and the generic implication of those causes.

Short of a finding of some type, whether by admission or declaration, that there was a historical pervasive breakdown based on the evidence before the Board, CASE must insist on its rights to pursue such a finding by the Board. Prior to the continuation of that aspect of the hearing process it will be necessary for the Applicants to release all the data in their possession related to the extent and causes of the design, construction, and QA/QC breakdown. At that point CASE will complete its affirmative case on those issues and seek a ruling that there has been a pervasive QA/QC breakdown in design and construction and that the Applicants have failed to establish that Comanche Peak was designed or constructed in accordance with regulatory standards.

If CASE fails to establish its case at that stage it will have lost on those issues and there would be no point in going forward on those issues; however, if CASE prevails, the Applicants must come forward with their rebuttal case on those issues.

Presumably, the Applicants' rebuttal case will be, as they have recently indicated, that the CAP and its results will prove their case:

> . . . the CAP and its results will be a significant part of the basis for our request to the NRC for an operating license for CPSES . . . (Applicants' letter of August 28, 1987, to U. S. NRC, TXX-6675, copy attached.)

The CPRT Results Reports on individual ISAP's, and/or on root cause determination will be relevant only to the extent that they are to be relied

upon by the Applicants, or used by CASE for demonstrating that there was a pervasive breakdown and/or that all the deficiencies have not been detected and/or corrected.

2. The Proposed Schedule is Illogical and Impractical

The Applicants propose a "trigger date" schedule that activates a self-propelling time schedule on each of the five types of reports that has been prepared over the past two years or that will be completed in the next six to eight months (pages 7 through 10 of Applicants' August 20, 1987, Motion for Establishment of Schedule).

The schedule then moves forward to a hearing with a 10-day provision for the NRC Staff or CASE to move to defer the litigation in the event of the interdependence of the report on another report.

The proposed schedule puts the Staff on a 30-day time limit to evaluate the report and allows only 10 days for CASE to prepare and serve discovery on the Staff. The schedule anticipates that CASE will, on the 55th day after the trigger date, make a decision on whether to contest the report, how it intends to contest the report, and what position it takes on the matters in contention.

Following this 60-day hurdle, CASE is to prepare direct testimony and the rebuttal testimony, and wait for a hearing.

The schedule puts as equal 55 results reports of fairly narrow technical focus with which CASE has some familiarity, has studied the procedures and programmatic aspects of the ISAP, and has answers to detailed Board questions, and probably was the direct or indirect source of the item in the first place, with major Project Status Reports which are incomplete, totally unknown to CASE, and based on a program which is also completely

unknown, according to procedures not yet disclosed.

Additionally, the proposed schedule assumes that CASE can absorb, digest, analyze, process, and take a position on conclusory documents in a matter of days, that the Applicants have taken years to prepare. Further, CASE is expected to take a position before discovery is adequately completed. (There is no reason to assume that the Applicants will provide access to documents any easier now than they have in the past, unless the new strategy is that they will dump "in process" data on CASE all at once in a manner that is humanly impossible to review. The Board has consistently promised that CASE would not be adversely impacted by Applicants' decision not to provide such data earlier in the process.)

The schedule does not provide a freeze date for non-compliance by the Applicants with discovery requests, or for the inability of the NRC Staff to comply with the imposed dates for completion of their evaluation /6/.

The Applicants apparently intend to rely principally on the Project Status Reports (PSR's) of the Corrective Action Program for licensing. The PSR's seem to rely on some of the results from the CPRT. However, we do not know what results or what role those results will play in the CAP. Presumably the procedures and detailed programmatic descriptions of the CAP delineate which parts of the CPRT will be relied upon as a basis for TUEC's diverse efforts; however, until those portions of the CPRT are identified it is illogical and, therefore, inefficient to proceed to hearing with all

/6/ If the new program is even remotely similar to the CPRT, it is safe to assume that the Staff, as well as CASE, will have numerous questions on the completed reports. (As recently as September 16, 1987, the NRC Staff was requesting additional information on ISAP Results Reports II.c and V.a; see letters dated September 16, 1987, from NRC's Christopher I. Grimes to TUEC's William. G. Counsil under subject: Request for Additional Information on ISAP Results Report.)

the CPRT results reports as if they were going to be evidence offered in the case by Applicant or relied upon by CASE for rebuttal or impeachment in this case.

3. The Process from here to licensing must be based on finality and full disclosure.

CASE asserts that the moving target must stop. CASE has been at this juncture several times before. This is not new. (See, for instance, Board's Memorandum and Order (Scheduling of Hearings), June 12, 1986, portions of which are quoted at the bottom of page three of this pleading; see also Board's December 28, 1983, Memorandum and Order, LBP-83-81, 18 NRC 1410 et seq. /7/.)

CASE believes that all participants in these proceedings are ready for the next hearings to be the last set of operating license hearings /8/.

CASE adamantly opposed the "laissez faire" policies of the Staff and the Board in regards to the CPRT and the work done under it, and the CAP, and the work being done under it. Nonetheless, the Board ruled that our Motion for an Evidentiary Standard was premature because the Applicants' program might be similar to what we were seeking (Board's March 12, 1985, Memorandum (CASE Motion for Evidentiary Standard)). Additionally, the Board

/7/ CASE is not specifically addressing in this filing Applicants' continual harangue regarding design issues, since Applicants (although grudgingly) "acknowledge this Board to have previously ruled that design issues are also within the scope of Contention 5" (Footnote 7, page 4, Applicants' August 20, 1987, Motion for Establishment of Schedule.) We do note, however, that CASE has previously addressed this matter in some detail (see, for instance, CASE's 11/4/85 (Main Docket) Answer to Applicants' 10/21/85 Petition for Directed Certification of Licensing Board Order of October 2, 1985, pages 14 through 19).

/8/ Applicants did not address, and CASE does not address here, the Construction Permit proceedings.

denied our plea for mandatory disclosure of all information on the basis of the Applicants' "in-process" argument.

Those decisions were all based on the theory that Applicants themselves asserted, that is, they are building the plant and can choose what evidence to submit to support their licensing request.

CASE, on the other hand, has a right to seek all available information on the extent, causes, and implications of the QA/QC breakdown to determine how it will prove that there was a prevasive breakdown such that a reasonable assurance finding is not possible, and why the current programs in place will not resolve these generic implications.

CASE's alternative schedule is based on the logical progression of the case, following the issues now before the Board, and the resolution of those issues in a logical and efficient manner. It does not include time/deadline dates because those dates are, at best, hypothetical and are controlled by the Applicants' release of reports and materials that will surely produce an impossible burden that CASE has diligently sought to avoid by its conscientious pursuit of facts.

Conclusion

Applicants have once again moved this tribunal for a scheduling order which would propel the Board and the parties on the most expansive hearing schedule the NRC has ever undertaken. The impetus for the proposed schedule is the eminent completion of the CPRT and the responsive Corrective Action Program. The results of embarking on such a proposed schedule would be wave upon wave of discovery while CASE first tries to determine just what plant the Applicants want to license -- the plant as originally envisioned prior to the iterative design process, the plant as it was built, the plant

as it has been redesigned, the plant that was reinspected, the plant as inspected by the NRC Staff, or the final plant which they intend to operate. CASE requests that the Board ensure that there be only one final set of licensing hearings and that any schedule adopted by the Board and imposed upon the parties be consistent with reality, fairness, and finality.

Respectfully submitted,

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CASE's Proposed Schedule
For Completion of Operating License Hearings*
On CAP and All Related Components

Step 1.	Day 0	Applicants identify that final design of the plant, the FSAR, construction of the plant, and QA/QC of the plant that it intends to rely upon to get a license. Applicants must disclose specifically what portions of the CPRT, CAP, et al., they intend to rely on. Applicants provide all factual information relevant to the extent and causes of the QA/QC breakdown on discovery **.
Step 2.	Day 1 (5 days after Board rules on Proposed Schedule)***	CASE files next phase of discovery on design.
Step 3.	Day 15	Applicants and Cygna respond to CASE's previously filed motions for summary disposition.
Step 4.	Day 15	Applicants complete all design review and produce all documents generated by it or any of its contractors, consultants, etc., related to the design review.
Step 5.	Day 15	Staff responds to CASE's previously filed motions for summary disposition.
Step 6.	Day __ (10 days after Step 5)	CASE discovery to Staff and Applicants based on responses to summary disposition motions.
Step 7.	Day __ (30 days after Step 6)	Applicants and Staff respond to Step 6 discovery.
Step 8.	Day __ (30 days after completion of Step 7)	CASE reply, if any, to Applicants and Staff responses to summary disposition motions.
Step 9.	Day __ (45 or 120 days after completion of Step 4)****	Parties file final discovery on design other than requests for admissions and depositions.
Step 10.	Day __ (30 days after Step 9)	Applicants and Staff respond to Step 9, including Staff final position on design issues.

Step 11.	Day __ (60 days after completion of Step 10)	Parties identify issues for hearings (or depositions in lieu of hearings) and file requests for admissions.
Step 12.	Day __ (15 days after Staff and Applicants respond to requests for admissions)	Depositions in lieu of hearings commence.
Step 13.	Day __ (30 days after completion of Step 12)	Parties file prefiled testimony for hearings and all documents upon which that testimony relies identified and produced (if not already produced).
Step 14.	Day __ (20 days after completion of Step 13)	Hearings begin, and, following their completion, and proposed initial decision is issued on design issues.
Step 15.	Day __ (30 days after completion of Step 14)	All parties file final discovery other than depositions and admissions relevant to CPRT/CAP, et al., adequacy.
Step 16.	Day __ (30 days after completion of Step 15)	All parties respond to Step 15.
Step 17.	Day __ (10 days after Step 14 or 16, whichever is later)	All parties commence depositions in lieu of hearings on CPRT/CAP, et al., adequacy.
Step 18.	Day __ (10 days after availability of transcripts from Step 17 in the PDR in D.C.)	All parties file requests for admissions, motions for summary disposition, identify issues for hearings, and file preliminary proposed findings of fact and conclusions of law.
Step 19.	Day __ (10 days after Step 18)	Prefiled testimony of all parties with all documents relied upon in preparing testimony identified and produced (if not previously produced).
Step 20.	Day __ (4 days after completion of Step 19)	Hearings begin, and, following their conclusion, an Initial Decision is issued.
Step 21.	On the days Applicants release each Results Report	Applicants make available all documents generated by it or any contractor, consultant, and the like in preparation of the Results Report and all documents reviewed in preparing the RR.

Step 22.	60 days after completion of Step 21 for each RR, with total time being at least 30 days for each RR released	CASE and Staff file their analyses and critiques of each Results Report.
Step 23.	10 days after completion of Step 22 for each RR	Parties file discovery as to each Results Report except depositions and admissions.
Step 24.	15 days after completion of Step 23 for each RR, or 30 days after completion of Step 20, whichever is later	Parties begin depositions in lieu of discovery on each Results Report.
Step 25.	Day __ (10 days after availability of transcripts from Step 24 in the PDR in D.C.)	All parties file requests for admissions, motions for summary disposition, identify issues for hearings, and file preliminary proposed findings of fact and conclusions of law.
Step 26.	Day __ (10 days after Step 25)	Prefiled testimony of all parties with all documents relied upon in preparing testimony identified and produced (if not previously produced).
Step 27.	Day __ (4 days after Step 26)	Hearings begin, and, following their completion, an initial decision is issued.
Step 28.	Day __ (15 days after completion of Step 27)	All parties file any final discovery with respect to remaining issues in Phase IV.
Step 29.	Day __ (30 days after completion of Step 28)	All parties file requests for admissions, motions for summary disposition, identify issues for hearings, and file preliminary proposed findings of fact and conclusions of law.
Step 30.	Day __ (10 days after Step 29)	Prefiled testimony of all parties with all documents relied upon in preparing testimony identified and produced (if not previously produced).
Step 31.	Day __ (4 days after Step 30)	Hearings begin, and, upon their completion, an initial decision is issued.

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* This schedule is similar to that filed by CASE on June 30, 1986, because at this point it still seems the most logical. Because Applicants have held back so-called "in process" documents from the design review, the CPRT, and more recently the CAP and other related components, and depending on the volume of material, timing of release of design reviews and Results Reports and production of relevant documents, and the extent to which the design reviews and Results Reports are flawed, it is not clear when this schedule can be completed. This is wholly the result of Applicants' refusal to share documents with CASE when they come into existence and their constantly changing "get well" plan. This Board has previously ruled that the delay in producing available documents will not prejudice CASE by forcing CASE to read and analyze the documents in less time than it would have had if the documents had been timely produced. This schedule is based on our best judgment of the time we will need and the time to which we are entitled. In many instances we propose less time than rigid application of the day-for-day-of-delay principle would allow. This is an accommodation within the context of the proposal and not a waiver of the right to apply that principle should the schedule proposed not be adopted.

This schedule does not include any further discovery on the adequacy of the CPRT Program Plan for construction and construction QA/QC, which will hopefully be completed with the completion of the depositions (see further more detailed discussion at Footnote 5 on page 10 of this pleading).

** Including, but not limited to, all expert analyses by all of the owners (including the minority owners) regarding the condition of the plant, the design, contruction and/or QA/QC of the plant, and the extent and causes of the breakdowns.

*** "Day" is the date on which the step is to be commenced and/or completed. Some items like depositions or hearings will commence on one day and conclude in an indefinite future. Other dates may slide depending upon how quickly and thoroughly Staff or Applicants respond to discovery. Some dates or series of dates may change depending upon agreement of the parties.

**** Assuming Applicants produce all design documents when they come into existence and when each part of the design work is finished, then the time in Step 8 could be as little as 45 days. However, if all documents are held until all design work is completed, then 120 days is a minimum time required and more may be necessary depending on the volume of the material.

Comanche Peak rework plan baffles agency

ASSOCIATED PRESS

Two days of explanations have not helped the Nuclear Regulatory Commission understand a massive rework plan at the Comanche Peak power plant, agency officials said.

"Quite frankly, we still can't see the whole picture," said Christopher Grimes, head of the Comanche Peak division of the agency's Office of Special Projects.

The multimillion-dollar reinspection and rework program was designed to make the plant near Glen Rose safe to operate. The plant, being built by TU Electric, is years past its planned opening and millions of dollars over budget.

NRC officials this week called the Comanche Peak plant the most complicated and complex plant on record and said utility officials muddied the waters further with some of their explanations.

The NRC must approve the plant s operating license.

The outlines of Comanche Peak's reinspection and rework program became a little clearer, however, during this week's meetings requested by the NRC.

Officials for TU Electric said that in addition to reinspecting all design work related to safety, they are challenging the quality of almost every piece of safety-related construction work in the $7.7 billion plant.

The plant's original architect-engineer has been taken off all design and engineering work. One construction subcontractor also has been replaced.

The plant, 45 miles southwest of Fort Worth, is scheduled to begin commercial operation in 1989, nine years later than expected.

TU Electric officials said the rework program is about two months behind schedule, but that the plant's opening probably will not be delayed because of it.

The rework plan for Comanche Peak was massive when it was begun two years ago. It has expanded continually, however, as TU Electric and outside consultants found more and more problems.

Last August, the company announced that the design and engineering of all safety-related portions of the plant would be re-evaluated, and that what had been built would be changed to carry out the corrected design.

Log # TXX-6675
File # 10004

TU ELECTRIC

William G. Counsil
Executive Vice President

August 28, 1987

U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, D.C. 20555

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION (CPSES)
DOCKET NOS. 50-445 AND 50-446
CORRECTIVE ACTION PROGRAM (CAP)
DESCRIPTION AND FLOW DIAGRAMS

Gentlemen:

TU Electric is determined to take all necessary actions to provide reasonable assurance that CPSES has been properly designed and constructed and can be safely operated. The TU Electric approach in taking these actions is to strive for excellence and not be satisfied with simply meeting minimum regulatory requirements. The CAP exemplifies the TU Electric approach in taking action and is a vital and fundamental element of the overall plan in providing reasonable assurance.

Because the CAP and its results will be a significant part of the basis for our request to the NRC for an operating license for CPSES, it is imperative that we provide a clear understanding of the CAP to the NRC staff. The public meeting held on July 29 and 30, 1987, between TU Electric and the NRC, revealed a need for TU Electric to provide additional detail on the CAP. Accordingly, enclosed is material, including flow diagrams, which is organized to individually address each of the eleven units of the CAP.

Should you desire additional information on the CAP, please contact me.

Very truly yours,

W. G. Counsil

W. G. Counsil

By: _____

L. D. Nace
Vice President,
Engineering and Construction

RSB/mlh
Enclosure

c - Mr. C. I. Grimes
Mr. H. E. Schierling
Mr. R. D. Martin, Region IV
Resident Inspectors, CPSES (3)

TU ELECTRIC

William G. Counsil
Executive Vice President

Log # TXX-6712
File # 10004

September 8, 1987

U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, D.C. 20555

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION (CPSES)
DOCKET NOS. 50-445 AND 50-446
POST CONSTRUCTION HARDWARE VALIDATION PROGRAM (PCHVP)
ENGINEERING EVALUATION METHODOLOGY

REFERENCE: 1) TU Electric Letter TXX-6631 from W. G. Counsil to the NRC dated August 20, 1987
2) TU Electric Letter TXX-6675 from W. G. Counsil to the NRC dated August 28, 1987

Gentlemen:

At the public meeting on July 29 and 30, 1987, between TU Electric and the NRC, TU Electric presented the Post Construction Hardware Validation Program (PCHVP) as the element of TU Electric's Corrective Action Program (CAP) which validates the final acceptance attributes for safety-related and selected non-safety related hardware. TU Electric indicated that this validation of attributes defined in an attribute matrix, developed from the validated design specifications, would be implemented via physical validations (Quality Control Reinspections/Engineering Walkdowns) or engineering evaluations. Discussions at the public meeting of this methodology focused on the engineering evaluations. These discussions indicated to TU Electric that additional detail with respect to the conduct of engineering evaluations during the PCHVP might be beneficial to the NRC staff.

TU Electric is submitting the attached executive summary of the engineering evaluation methodology that will be implemented during the conduct of the PCHVP. The information in this executive summary is intended to supplement and expand upon information provided to the NRC staff at the public meeting and via the above referenced letters submitted to the NRC staff subsequent to the public meeting.

If you have any questions in this regard, please do not hesitate to ask.

Very truly yours,

W. G. Counsil

RSB/mlh
Attachment

c - Mr. C. I. Grimes
Mr. H. E. Schierling
Mr. R. D. Martin, Region IV
Resident Inspectors, CPSES (3)

EXECUTIVE SUMMARY OF THE POST CONSTRUCTION HARDWARE VALIDATION PROGRAM ENGINEERING EVALUATION METHODOLOGY

1.0 INTRODUCTION

The Post Construction Hardware Validation Program (PCHVP) is that element of TU Electric's Corrective Action Program (CAP) which validates the final acceptance attributes for safety-related and selected non-safety related hardware. The PCHVP meets regulatory requirements and has been developed to be consistent with the high standards of excellence expected by TU Electric.

The initial input parameters to the PCHVP are contained in the installation specifications. The installation specifications implement the licensing commitments and design criteria of the Design Basis Documents (DBDs), which were developed during the CAP contractors' Design Validation process.

Final acceptance inspection requirements identified in the validated installation specifications were used to develop the PCHVP attribute matrix. This matrix is a complete set of final acceptance attributes identified for installed hardware.

The PCHVP by either physical validations (not discussed in this executive summary) or through an engineering evaluation methodology, assures that each of the attributes defined in the attribute matrix is validated. This program will provide reasonable assurance that the validated design has been effectively implemented for safety-related and selected non-safety related hardware.

The PCHVP engineering evaluation is procedurally controlled to guide the responsible engineer through the evaluation of each item on the attribute matrix to be dispositioned by the engineering evaluation method. Dispositions of each attribute will be clearly documented. If the technical disposition of the final acceptance attribute is "not acceptable" or the attribute cannot be dispositioned based on available information, an alternate plan consisting of additional evaluations, testing, inspections/walkdowns or modification as necessary will be developed to demonstrate and document the acceptability of the attribute. The procedure controlling this engineering evaluation is currently available on site for NRC staff review. The purpose of the Executive Summary is to provide, for the NRC staff's review, sufficient detail to adequately describe the engineering evaluation method of validation. Quality Control reinspection/engineering walkdowns are controlled by the appropriate Field Verification Method and are not described herein.

2.0 DETAILS

Figure 1 illustrates the process that is being used in the PCHVP engineering evaluations. Each attribute identified in the attribute matrix is dispositioned. Appropriate aspects of the engineering, quality, and oversight organization are involved in this disposition.

Recommendations from the Comanche Peak Response Team (CPRT) effort comprise a significant portion of this evaluation. A major component of the CPRT program has been the reinspection of a comprehensive, random sample of existing hardware using an independently derived set of inspection attributes. The reinspection was performed and the results evaluated by third party personnel per Appendix E to the CPRT Program Plan (submittal from TU Electric via letter TXX-6540 from W. G. Counsil to the NRC dated June 25, 1987). The scope of the reinspection covered 100% of the then final quality accepted installed hardware by segregating the hardware into homogeneous populations (by virtue of the work activities which produced the finished product). These populations were sample reinspected to at least a 95/5 confidence level on an attribute basis per Appendix D to the CPRT Program Plan.

Corrective action recommendations were made to the TU Electric project based on the evaluated findings when a) a Construction Deficiency existed, b) an Adverse Trend existed, or c) an Unclassified Trend existed, all as defined per Appendix E to the CPRT Program Plan.

The PCHVP assures that all CPRT recommendations are properly dispositioned.

Figure 1 illustrates that, during the engineering evaluation of a given attribute from the PCHVP attribute matrix, the initial task of the responsible engineer is to determine if any of the following statements are true:

a. The attribute was recommended for reinspection by the CPRT.

b. Design Validation resulted in a change to design (e.g., any design document, Corrective Action Request (CAR), Significant Deficiency Analysis Report (SDAR), etc.) or acceptance attribute that is more stringent than the original acceptance criteria.

c. Design Validation resulted in new work, including modification to existing hardware.

If the CPRT had no recommendations and items b or c, above, do not apply, the attribute under consideration will be accepted. This conclusion is justified by the comprehensive coverage of the CPRT reinspection and the consistently conservative evaluation of each finding from both a statistical and adverse trend perspective. The attribute matrix is then updated to indicate that neither engineering walkdown nor quality control reinspection of the attribute is necessary. A completed evaluation package is prepared and forwarded to the Comanche Peak Engineering (CPE) organization for concurrence. The evaluation package is vaulted after CPE concurrence is obtained.

If any of the three statements are true, it is assumed that the final acceptance attribute must be further evaluated as follows:

2.1 Determine Attribute Accessibility

The responsible engineer will determine if the attribute is accessible as defined in the implementing procedure. If the attribute is accessible, a field validation of the item's acceptability will be performed and documented in accordance with an approved Field Verification Method (FVM).

If the responsible engineer reaches the conclusion that the attribute is inaccessible, an engineering evaluation will be conducted by technical disposition of available information.

After completing the attribute accessibility review, the responsible engineer will update the attribute matrix as necessary to reflect the results of that review.

2.2 Technical Disposition

The responsible engineer identifies the data to be considered during the subsequent technical disposition process. Examples of such items used in this disposition may include, but are not limited to:

- Historical Documents (e.g. Specifications, Procedures, Inspection Results);
- External Source Issues;
- Construction Practices;
- Quality Records;
- Test Results;
- Audit Reports;
- Authorized Nuclear Inspector (ANI) Records;
- Surveillance Reports;

- o NCRs, DRs, SDARs and CARs;
- o Reinspections conducted to date;
- o Results of Third Party Reviews;
- o Purchasing Documents;
- o Construction Packages; and
- o Receipt Inspections.

After compiling the data identified as pertinent to the attribute, the technical disposition will be performed. The actual steps and sequence of actions required for each technical disposition will differ; however, the tangible results from each technical disposition will be consistent. These results will include as a minimum:

a. a written description of the attribute;

b. a written justification by the responsible engineer and approved by the responsible engineer's management for acceptance of the attribute;

c. a written explanation of the logic utilized to conclude that the attribute need not be field validated;

d. a chronology demonstrating that the attribute has not been significantly altered by redesign;

e. all documents viewed to support the disposition; and

f. concurrence of the acceptance of the attribute's validity by CPE.

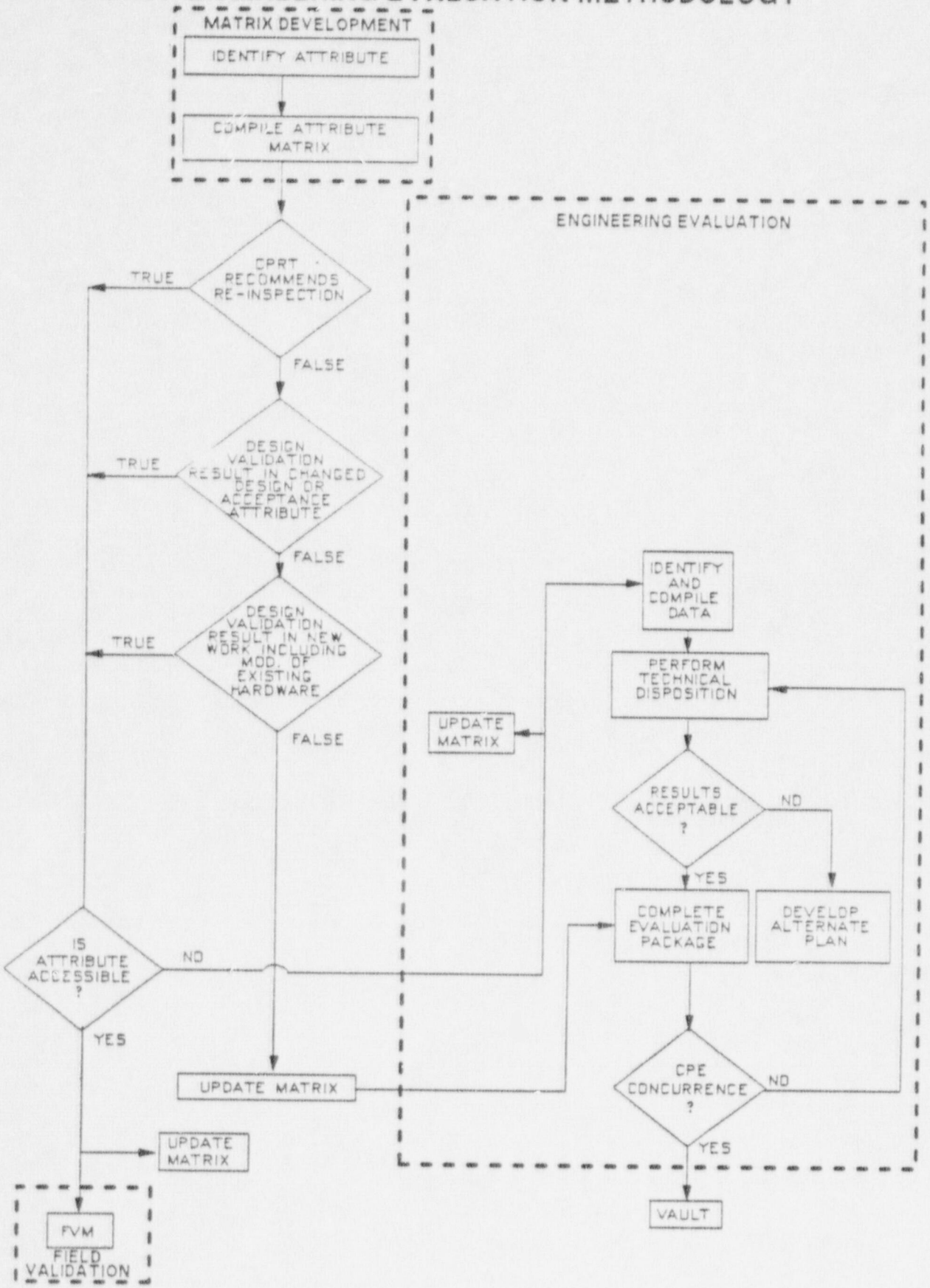
If the responsible engineer concludes that the data evaluated represents evidence of the attribute's acceptability, the conclusion will be documented in an Attribute Evaluation Report. The report and supporting documentation will be reviewed and approved by CPE Management and vaulted. If the responsible engineer determines that the data reviewed does not provide evidence of the attribute's acceptability, the Attribute Evaluation Report will explain why the attribute cannot be validated and recommend an alternate course of action. The alternate course of action may take various forms; such as, making the attribute accessible and reinspecting it, or testing to support the attribute's acceptability. This alternate plan, after approval by CPE Management, will be implemented to validate the attribute.

3.0 SUMMARY

The process above describes a comprehensive process by which each attribute in the PCHVP attribute matrix is validated to the validated design. The TU Electric Quality Assurance Technical Audit Program will audit the PCHVP. This audit program is complemented by the Engineering Functional Evaluation being performed by an independent team comprised of Stone and Webster, Impell and Ebasco engineering personnel working under the Stone and Webster QA Program and subject to oversight directed by the CPRT's Senior Review Team.

This combination of audit and independent oversight provides assurance that the PCHVP has been effectively implemented.

FIGURE 1
PCHVP ENGINEERING EVALUATION METHODOLOGY



LOG # TXX-6783
File # 10004

TU ELECTRIC

William G. Counsil
Executive Vice President

September 23, 1987

U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, D. C. 20555

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION (CPSES)
DOCKET NOS. 50-445 AND 50-446
POST CONSTRUCTION HARDWARE VALIDATION
PROGRAM ATTRIBUTE MATRIX

Gentlemen:

Enclosed is the Post Construction Hardware Validation Program (PCHVP) Attribute Matrix. The PCHVP Matrix, which has been discussed in recent submittals involving the Corrective Action Program, has been issued in accordance with our procedure EC 9.04, "Post Construction Hardware Validation Program."

TU Electric has delegated the responsibility for maintenance of the PCHVP Attribute Matrix to Stone and Webster Engineering Corp. (SWEC) using input from the Lead Contractor organizations as specified in procedure EC 9.04. Procedure EC 9.04 (in conjunction with SWEC procedure PP-220) establishes the measures for production, revision and control of the PCHVP Attribute Matrix.

The PCHVP Attribute Matrix is a dynamic document which may need to be revised periodically. An updated copy of this PCHVP Attribute Matrix will be available onsite for your audit and, at your request, will be provided to onsite NRC personnel.

Very truly yours,

W. G. Counsil

RSB:al

Enclosure

c- Mr. C. I. Grimes
Ms. M. Malloy
Mr. R. D. Martin, Region IV
Resident Inspectors, CPSES (3)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	}{	
	}{	
TEXAS UTILITIES ELECTRIC	}{	Docket Nos. 50-445
COMPANY, et al.	}{	and 50-446
(Comanche Peak Steam Electric	}{	
Station, Units 1 and 2)	}{	

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that true and correct copies of

CASE's Answer to Applicants' 8/20/87 Motion for Establishment of Schedule

have been sent to the names listed below this 28th day of September, 1987, by: Federal Express where indicated by * and First Class Mail elsewhere.

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Washington, D. C. 20555

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