PLAINTIFF'S EXHIBIT

TPL-5

NO. 00-08154-A

EVERETT RAY CLARK; SYLVESTER DEAN; and ROBERT A. HITCHCOCK	§	IN THE DISTRICT COURT
v.	§	DALLAS COUNTY, TEXAS
GAF CORPORATION, INC., et al.	§	14TH JUDICIAL DISTRICT

Original Answer of Defendant Texas Power & Light Company, Inc. to Plaintiffs' First Amended Petition

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, TEXAS POWER & LIGHT COMPANY, INC. (hereinafter referred to as Defendant), one of the defendants herein, and makes and files this its Original Answer to Plaintiffs' First Amended Petition and in support of same would respectfully show the Court as follows:

I.

Motion to Dismiss

This Defendant moves to dismiss the multiple claims as to plaintiffs named in the Plaintiffs' Original Petition, as well as any plaintiffs added by way of amended petition or petitions in intervention in this cause, and in support thereof, would respectfully show this Court the following:

Plaintiffs have filed a consolidated action alleging injuries from exposure to asbestos containing products. Joinder of these claims in a single case will greatly complicate the facts and evidence to be presented as well as cause confusion to the jury during trial because the claims, afflictions, alleged exposures of the individual plaintiffs vary widely.

Joinder of multiple plaintiffs will greatly complicate the issues of the pending cases and will result in excessive multiplication of the issues involved. Therefore, this joinder of multiple claimants in one suit is improper, and such claims must be dismissed.

Further, a consolidated trial of multiple plaintiffs against multiple defendants improperly prejudices this defendant by adversely influencing the jury. Some of the problems of undue prejudice resulting from mass joinder of asbestos claims include:

a. The jury's perception that a large number of claims, as consolidated, necessarily have merit and thus, that liability and damages finding are warranted as to each of several defendants.

b. The jury's difficulty in, and/or inability to, separate evidence and make individual determinations of liability and damages as to each of the multiple defendants.

c. The jury's understandable tendency to resort to averaging in determining damages and liability against multiple defendants.

d. The jury's propensity to generalize evidence even if carefully admonished by the Court. Jurors tend to ignore the multiple complex issues of individual cases and anchor to only a small fraction of the evidence, usually the most egregious testimony and most serious injury.

In a multiple plaintiff asbestos case, the adverse influences and undue prejudice outlined above prevents this defendant from obtaining a fair and impartial trial with guarantees of due process and equal protection as guaranteed under the Constitutions and statutes of the United States and Texas. Plaintiffs' claims should be dismissed or in the alternative severed and individually docketed as a separate claim in a court of proper venue and jurisdiction.

DEFENDANT'S ORIGINAL ANSWER

COMES NOW, TEXAS POWER & LIGHT COMPANY, INC. (hereinafter referred to as Defendant) and files this its original answer to Plaintiffs' First Amended Petition:

I.

(1) This Defendant specially excepts to Plaintiffs' petition in its entirety because it fails to state a cause of action. Such petition fails to give fair and adequate notice of the facts upon which the plaintiffs rely in order that the adverse party may

properly prepare a defense, as Texas law requires. There are in excess of three (3) Plaintiffs who allege claims against forty-three (43) separate defendants, including this Defendant. Nowhere in their pleading do Plaintiffs indicate what specific conduct gives rise to liability against this Defendant, making it impossible for this Defendant to adequately prepare defenses to plaintiffs' non-specific and conclusory allegations. Each of such allegations fail to apprise this Defendant of the alleged facts of liability with which it will be confronted upon trial hereof and do not meet the test of fair notice required by the TEXAS RULES OF CIVIL PROCEDURE and should be stricken; in the alternative, plaintiffs should be required to replead. Of all of the foregoing special exceptions, Defendant prays judgment of the Court.

(2) This Defendant specially excepts to allegations contained in paragraphs 51-52, 54 and elsewhere of such Petition wherein Plaintiffs allege that plaintiffs, were exposed to asbestos, asbestos containing products, and machinery containing asbestos or asbestos containing products, and that Defendants were guilty of negligence (paragraphs 61-63 and elsewhere) and says that same should be stricken as a matter of law and does not meet the good faith pleading requirements of the TEXAS RULES OF CIVIL PROCEDURE. Such pleadings are so general and vague that this Defendant is not apprised of the facts and matters with which it will be confronted at trial herein and cannot prepare its defenses for trial. Such pleading should be stricken or in the alternative, Plaintiff should be required to replead specifically the dates and times of such alleged exposure, the nature of

the work performed, the alleged place of exposure, and the employer of such Plaintiff. Of which exception, Defendant prays judgment of the Court.

(3) Defendant specially excepts to Plaintiffs' pleadings concerning joint and several liability (paragraphs 52-53 and elsewhere), conspiracy (paragraphs 65-73, 76 and elsewhere), aided and abetted (paragraphs 83-86), and says that same should be stricken as a matter of law and does not meet the good faith pleading requirements of the TEXAS RULES OF CIVIL PROCEDURE. Such pleadings are so general, over broad, and vague that this Defendant is not apprised of the facts and matters with which it will be confronted at trial herein and cannot prepare its defenses for trial. Such pleading should be stricken or in the alternative, Plaintiffs should be required to replead specifically.

(4) This Defendant specially excepts to allegations contained in paragraph 76 and elsewhere of such Petition wherein Plaintiffs allege entitlement to exemplary damages and says that same should be stricken as a matter of law and does not meet the good faith pleading requirements of the TEXAS RULES OF CIVIL PROCEDURE. Such pleadings are so general and vague that this Defendant is not apprised of the facts and matters with which it will be confronted at trial herein and cannot prepare its defenses for trial. Such pleading should be stricken or in the alternative, Plaintiffs should be required to replead specifically. Of which exception, Defendant prays judgment of the Court.

Of all of the foregoing exceptions, Defendant prays Judgment of the Court.

II.

Defendant, in keeping with Rule 92, of the TEXAS RULES OF CIVIL PROCEDURE, generally denies all and singular, each and every material allegation contained in said Petition, says that same is not true in whole or in part and demands strict proof thereof before a jury and respectfully requests that the Plaintiffs be required to prove the charges and allegations against this Defendant by a preponderance of the evidence as is required by the Constitution and the Laws of the State of Texas.

III.

Defendant affirmatively asserts the proportionate responsibility and contribution protections of Chapter 33 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE. While continuing to deny that Plaintiffs and/or Plaintiffs' decedent's injuries and damages, if any, were proximately caused by this Defendant, Defendant requests a determination of whether the purported injuries and damages to Plaintiffs and/or any of Plaintiff's decedents were proximately caused or produced by the conduct of any Plaintiff, any defendant herein, each settling party or person, each responsible party who has been joined in this case under Section 33 of the Tex. Civ. Prac. & Rem. Code Ann, and/or other persons or parties, and, if so, the percentage of responsibility attributable to each such Plaintiff, other persons or parties found to have been a cause of any of the Plaintiff's purported injuries, illnesses, or damages, and to reduce and/or apportion judgment, if there be any, by the degree of such causation attributed to the Plaintiffs, and such other persons or parties. In the alternative, the negligence and conduct of Plaintiffs and Plaintiffs' decedent's was a new and intervening and independent cause which was the sole proximate cause or a concurring proximate cause of the accident and Plaintiffs' damages, if any there may be.

IV.

Plaintiff's claims, in total or in part, are barred under the provisions of the Texas Workers Compensation Statute if any of the Plaintiffs were employees of the Defendant.

V.

Defendant alleges that the risks of harm, which Plaintiffs allege caused them injury, were not known to the Defendant, nor did the Defendant have reason to know of said risk at the time of Plaintiff's alleged exposures. Therefore, any risk of harm was not reasonably foreseeable by the Defendant. Thus, the Defendant should not be held liable for Plaintiffs' damages, if any.

VI.

Defendant would show the attempted joinder of the multiple individual Plaintiffs and multiple defendants in this case deprives Defendant of the right to due process under the Constitution of the United States. Further, there has been a misjoinder of claims and parties pursuant to Rule 41, TEXAS RULES OF CIVIL PROCEDURE. Plaintiffs' claims should be severed and each plaintiff should be required to allege specifically the Defendants against which such Plaintiff asserts a claim.

VII.

Defendant denies that it is responsible or liable for any of the damages allegedly sustained by Plaintiffs. However, if Plaintiffs have sustained any damages, then such damages, if any, should be reduced by the amount that Plaintiffs could have reasonably mitigated such damages by proper action and by the amount, if any, Plaintiffs have actually mitigated such alleged damages, if any.

VIII.

Further answering herein, Defendant affirmatively asserts and contends that Plaintiffs are not entitled to recover pre-judgment interest in this case. In the alternative, if pre-judgment interest is

recoverable, Plaintiffs are limited in keeping with TEX. REV. CIV. STAT. ANN. art. 5069-1.05 (Vernon Supp. 1993).

IX.

Further answering, Defendant says that the injuries in question and Plaintiffs' damages, if any, were proximately caused by the negligence of the Plaintiffs or of some third party, known or unknown or of another party over which this Defendant had no control and for which this Defendant is not liable or responsible, which negligence was the sole proximate and/or producing cause or, in the alternative, a concurrent proximate and/or producing cause of the occurrences in question, and Plaintiffs' damages, if any, there may be, and Defendant is entitled to indemnity and contribution as provided by law.

X.

Plaintiffs' alleged injuries resulted from an intervening or superseding or a new and independent cause which was the proximate and/or producing cause and/or the sole proximate and/or sole cause of the occurrences and injuries alleged by Plaintiffs. Moreover, the occurrences and alleged injuries were caused by separate and independent events or agencies not reasonably foreseeable. Such separate and independent events or agencies destroyed a causal connection, if any, between any alleged breach of legal duty on the part of Defendant and any injuries alleged by plaintiff, and thereby become the immediate and/or sole cause and/or proximate cause of the occurrences and alleged injuries, relieving Defendant of liability to Plaintiffs or to any other party.

XI.

The answering Defendant reserves and relies upon all rights, protections, options and offsets allowed under the decision in *Duncan v. Cessna* and provisions of the TEXAS CIVIL PRACTICE AND REMEDIES CODE concerning joint tortfeasors, including, but not limited to, those related to

settlement or compromise of any claim and comparative responsibility. To the extent that Plaintiffs have entered into a Release, Settlement and Indemnity Agreements with manufacturers for the same alleged exposure made the basis of the current claims, then such Plaintiffs have released their claims against this Defendant and are barred from prosecuting this lawsuit.

XII.

Defendant would show that it is entitled to a credit for settlements made between Plaintiffs and any other entity for the purported injuries, illnesses, or damages allegedly caused by Defendant and sought in this lawsuit.

XIII.

Plaintiffs' alleged claims are barred by the applicable statute of limitations.

XIV.

Plaintiffs' alleged claims are barred by laches.

XV.

Further answering herein, Defendant affirmatively asserts and contends that it hired independent contractors who were knowledgeable in their crafts and were expected to perform their work in a safe and workmanlike manner. These contractors had the right and duty of control of their employees and their subcontractors' employees, which they exercised. Defendant denies that it was negligent or that it had a duty that was breached to any contractor's and/or subcontractor's employees. Defendant denies that its premises were unsafe or had a defect existing in its premises.

XVI.

Defendant denies that there were any dangerous conditions on its premises that caused Plaintiffs' injuries, if any. Further answering herein, Defendant affirmatively asserts and contends that the situation about which Plaintiffs complain herein arose out of transitory

conditions arising out of the very work of Plaintiffs, and therefore Defendant breached no duty to and has no liability as alleged by Plaintiffs.

XVII.

Further answering herein, Defendant affirmatively asserts and contends that Plaintiffs and Plaintiffs' decedent assumed the risks of any alleged defective condition on the premises in which they worked.

XVIII.

Further answering herein, Defendant affirmatively asserts and contends that the alleged injury or illness of Plaintiffs and of Plaintiffs' decedent resulted from natural and ordinary diseases of life, was due to unknown causes or was the result of an unavoidable accident, an act of nature or an act of God insofar as Defendant is concerned. Pleading further, and in the alternative, Defendant would show that if Plaintiffs sustained any injury and damages, then such alleged injuries and damages are the result of pre-existing injuries or illnesses, or subsequent injuries or illnesses, and not caused nor aggravated by any alleged exposure at any premises for which this Defendant is responsible or liable.

XIX.

Further answering herein, Defendant affirmatively asserts and contends that the alleged illness of Plaintiffs and of Plaintiffs' decedent was the result of new, independent and intervening causes.

XX.

Further answering herein, Defendant affirmatively asserts and contends that the imposition of joint and several liability in this case would violate this Defendant's constitutional rights to due process guaranteed under the United States Constitution and amendments thereto.

XXI.

Further answering herein, Defendant affirmatively asserts and contends that it is not liable for the mining, processing and/or manufacturing, sale, distribution, design, or installation of any asbestos or asbestos-containing products by any former or current subsidiary or predecessor.

XXII.

Further answering, Defendant affirmatively asserts that it may not be held vicariously liable for punitive damages.

XXIII.

Pleading further, and in the affirmative, Defendant would show the Court that the claim for exemplary damages and actual damages asserted by Plaintiffs herein is in direct contravention of, and is in violation of the Constitution of the United States and the Constitution of the State of Texas and the imposition of punitive damages against Defendant would be fundamentally unfair for the following reasons:

a. Any award of punitive damages would be arbitrary, unreasonable, excessive, and in violation of Defendant's right to due process of law and equal protection of the law, under the Fifth, Eighth and Fourteenth Amendments of the United States Constitution, and Article I, §§3, 13 and 19, of the Texas Constitution. The applicable standards for the assessment and award of such damages are insufficient, vague, ill defined, unpredictable, and without sufficient or adequate guidelines for the award of such damages. Such standards permit an unreasonable, arbitrary, capricious, and confiscatory award having no relation to any facts and therefore afford Defendant no means by which to prepare its defense and permit the award of such damages to be based on the caprice and

prejudice of the trier of fact, all in violation of Defendant's constitutional right to due process. The insufficiency and vagueness of the standards in question and the absence under the law of reasonable limits on the amount of exemplary damages that may be awarded violates the doctrine of vagueness and denies Defendant the constitutional safeguards present in criminal proceedings and the limitations affixed by criminal law on the amount of such punishment. In assessing punitive damages, the verdict of the jury should be based on the unanimous vote of all twelve jurors. Further, the assessment of such a punishment and/or exemplary award is not based upon a clearly defined statutory enactment setting forth a specific means, requirement and/or other prerequisite of a criminal fine and in effect allows the assessment of such awards even though there are no specific standards, limits or other statutory requirements set forth which define the means and scope and limit of such awards. Therefore, the awards are unduly vague and do not meet the requirements of due process.

b. The assessment of punitive damages, a remedy that is essentially criminal and penal in nature, without the safeguards greater than that afforded by Texas Rules of Civil Procedure and law, constitutes infliction of a criminal penalty without the safeguards guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments of the Constitution of the United States. The award of exemplary damages would be tantamount to a criminal penalty or fine. Furthermore, to allow the imposition of exemplary damages in the setting of this civil action would effectively deny Defendant the privilege against self-incrimination under

the Fifth Amendment in any discovery or trial herein and would deny Defendant the right to require proof beyond a reasonable doubt under the Sixth Amendment to the United States Constitution.

c. Punitive damages under Texas procedures and law constitutes an excessive fine in violation of the Eighth Amendment of the Constitution of the United States, and Article I, §13 of the Texas Constitution and constitutes cruel and unusual punishment. It also constitutes an attempt to take property of Defendant without due process of law.

d. To permit an award of exemplary damages based in whole or in part on evidence of the wealth or affluence of Defendant would violate Defendant's right to equal protection as provided under the Fifth and Fourteenth Amendments to the United States Constitution and under Article I, §3 of the Texas Constitution.

e. In the event the Plaintiffs are permitted to continue to seek and to offer evidence on their claims for exemplary damages in this cause, they should be required to prove those claims beyond a reasonable doubt, or in the alternative, at least by clear and convincing evidence.

f. Defendant specifically and affirmatively pleads the limitations on the recovery of exemplary damages contained in §41.001 *et seq.* of the TEXAS CIVIL PRACTICE AND REMEDIES CODE.

g. The imposition of punitive damages violates the Double Jeopardy Clause of the Fifth Amendment of the United States Constitution.

h. Any award of punitive damages against Defendant would violate its rights under the common law, statutes, rules of civil procedure, and public policy of the State of Texas, because under Texas law the jury:

(1) is not provided standards of sufficient clarity for determining the appropriateness, and appropriate size, of a punitive damage award;

(2) is not adequately instructed on the limits on punitive damages imposed by the applicable principles of deterrence and punishment (including the rule that punitive damages must be reasonably proportioned to actual damages);

(3) is not expressly prohibited from awarding punitive damages, or determining the amount of punitive damages, in whole or in part, on the basis of invidiously discriminatory characteristics, including the national origin, residence, wealth, and corporate status of the defendant;

(4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity the conduct or mental state that makes punitive damage permissible; and

(5) is not subject to particularized, detailed, and objective trial court and appellate judicial review for reasonableness and furtherance of legitimate purposes

i. The retrospective and ex post facto application of the law to allow recovery of exemplary damages is in violation of the Constitutions of the State of Texas and the United States of America, including, but not limited to the, Due Process Clause, the Contract Clause, the Double Jeopardy Clause, and the Fifth and Eight Amendments to the Constitution of the United States. Such laws cannot

be applied retroactively, and the laws and jurisprudence applicable when such alleged cause of action arose did not allow such recovery against this Defendant.

j. Plaintiffs' claims for punitive damages are barred to the extent they seek the admission of evidence of Defendant's net worth or wealth in determining whether punitive damages are to be awarded and/or in what amount, because punitive damages are a form of punishment, and punishment that is grounded in a defendant's status, rather than in specific misconduct, has the effect of treating classes of citizens unequally in violation of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and the Constitution of the State of Texas.

XXIV.

Defendant adopts by reference each defense not hereinabove alleged, if any, that may be alleged in any pleading by any other Defendant or third party Defendant in this action, heretofore or hereafter filed, except such separate defenses as make any allegations of fault against this Defendant, its agents, servants and employees.

XXV.

Defendant pleads the "state of the art" defense to each and every allegation of the plaintiffs. That is to say that the status of medical and scientific knowledge was such that the Defendant did not know, and was not legally chargeable with knowledge of any hazards or dangers of products containing asbestos at the time material to these Plaintiffs' cause of action.

XXVI.

This Defendant asserts the right of indemnity, or in the alternative, contribution, of and from all other Defendants, or in the alternative, for comparative offset and contribution for the

negligence, liability, fault, or conduct alleged in Plaintiffs' petition which is determined to be attributable to other Defendants or parties.

XXVII.

Pleading further, and in the affirmative, to the extent that any of the Plaintiffs engaged in smoking cigarettes and the use of other tobacco products such conduct constitutes negligence. Smoking cigarettes and the use of other tobacco products was known to cause chronic obstructive lung disease and in some instances was known to produce cancer and with this knowledge, the continued smoking of cigarettes and the use of other tobacco products constitutes negligence and the sole, and in the alternative, a concurring proximate cause and/or producing cause of Plaintiffs' injury, if any. In the alternative, such conduct constitutes a failure of the Plaintiffs to mitigate their alleged damages by continuing to smoke cigarettes or use other tobacco products.

XXVIII.

Pursuant to Rule 93 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant denies that it is liable in the capacities in which it has been sued and further states that there is a defect of parties defendant.

ANSWER TO ALL CROSS-ACTIONS, AND THIRD-PARTY ACTIONS

Defendant incorporates by reference its affirmative defenses plead hereinabove in response to and in answer to any and all cross-actions and/or third party actions filed or which may be filed in the future by any and all other parties to these proceedings, if any. Defendant denies each and every, all and singular the material allegations of fact and conclusions of law in such actions, and demands strict proof thereof. This Defendant denies that such parties are entitled to recover any relief from it, either directly, indirectly, by way of indemnity, contribution, lien, contract, or otherwise.

MOTION FOR BIFURCATED TRIAL

XXIX.

Defendant moves for a Bifurcated trial pursuant to § 41.009, TEXAS CIVIL PRACTICE AND REMEDIES CODE in a county of proper venue.

WHEREFORE, PREMISES CONSIDERED, Defendant, prays that, upon final hearing hereof, Plaintiffs take nothing from it, that Defendant recover its costs of suit, and for such other and further relief, both general and special, at law and in equity, to which Defendant is justly entitled to receive.

JURY DEMAND

Pursuant to Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant hereby demands a jury trial in a county of proper venue and jurisdiction.

Respectfully submitted,

BURFORD & RYBURN, L.L.P.

By: _____

DAVID M. WEAVER
State Bar No. 21007150
SIMON D. WHITING
State Bar No. 21373600

3100 Lincoln Plaza, 500 N. Akard
Dallas, Texas 75201-3320
Tel: 214/740-3100
Fax: 214/740-3125

ATTORNEYS FOR DEFENDANT
TEXAS POWER & LIGHT COMPANY, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing instrument has been served upon counsel for Plaintiffs via:

X CERTIFIED MAIL/RETURN RECEIPT REQUESTED
____ TELEPHONIC DOCUMENT TRANSFER (FAX)
____ FEDERAL EXPRESS/EXPRESS MAIL
____ COURIER/RECEIPTED DELIVERY
____ REGISTERED MAIL/RETURN RECEIPT REQUESTED
____ HAND DELIVERY (IN PERSON)
____ REGULAR MAIL

DATED: 20 April 2001

DAVID M. WEAVER

NO. 00-08154-A

EVERETT RAY CLARK; SYLVESTER DEAN; and ROBERT A. HITCHCOCK	§	**IN THE DISTRICT COURT**
v.	§	**DALLAS COUNTY, TEXAS**
GAF CORPORATION, INC., et al.	§	**14TH JUDICIAL DISTRICT**

CERTIFICATE OF WRITTEN DISCOVERY OF TEXAS POWER & LIGHT COMPANY, INC. TO PLAINTIFFS –REQUESTS FOR DISCLOSURE, REQUEST FOR PRODUCTION AND INTERROGATORIES

Defendant TEXAS POWER & LIGHT COMPANY, INC. in the above styled and numbered cause has served its Requests for Disclosure, Request for Production and Interrogatories on Plaintiffs, by and through their attorney of record on April ___, 2001

Respectfully submitted,
BURFORD & RYBURN, L.L.P.

By:_____
DAVID M. WEAVER, State Bar No. 21007150
3100 Lincoln Plaza, 500 N. Akard
Dallas, Texas 75201-3320
Tel: 214/740-3100
Fax: 214/740-3125
ATTORNEYS FOR DEFENDANT
TEXAS POWER & LIGHT COMPANY, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing instrument has been served upon counsel for Plaintiffs via:

__X__ CERTIFIED MAIL/RETURN RECEIPT REQUESTED
_____ TELEPHONIC DOCUMENT TRANSFER (FAX)
_____ FEDERAL EXPRESS/EXPRESS MAIL
__X__ COURIER/RECEIPTED DELIVERY
_____ REGULAR MAIL

DATED: 20 April 2001.

DAVID M. WEAVER

244431.1 302-2309

NO. 00-08154-A

EVERETT RAY CLARK; SYLVESTER DEAN; and ROBERT A. HITCHCOCK	§	IN THE DISTRICT COURT
v.	§	DALLAS COUNTY, TEXAS
GAF CORPORATION, INC., et al.	§	14TH JUDICIAL DISTRICT

CERTIFICATE OF WRITTEN DISCOVERY OF TEXAS POWER & LIGHT COMPANY, INC. TO ROBERT A. HITCHCOCK – REQUEST FOR PRODUCTION AND INTERROGATORIES

Defendant TEXAS POWER & LIGHT COMPANY, INC. in the above styled and numbered cause has served its Request for Production and Interrogatories on Robert A. Hitchcock, by and through their attorney of record on April 20, 2001

Respectfully submitted,
BURFORD & RYBURN, L.L.P.

By: _____
DAVID M. WEAVER, State Bar No. 21007150
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Dallas, Texas 75201-3320
Tel: 214/740-3100
Fax: 214/740-3125
ATTORNEYS FOR DEFENDANT
TEXAS POWER & LIGHT COMPANY, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing instrument has been served upon counsel for Plaintiffs via:

X CERTIFIED MAIL/RETURN RECEIPT REQUESTED
___ TELEPHONIC DOCUMENT TRANSFER (FAX)
___ FEDERAL EXPRESS/EXPRESS MAIL
___ COURIER/RECEIPTED DELIVERY
___ REGULAR MAIL

DATED: 20 April 2001.

_____
DAVID M. WEAVER

H. SAM DAVIS, JR.
JAMES H. HOLMES III
GREGORY E. JENSEN
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JEB LOVELESS
STEPHEN N. WAKEFIELD
LARRY HALLMAN
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WAYNE PEARSON OF COUNSEL

WRITER'S DIRECT DIAL: (214) 740-3101
WRITER'S DIRECT FAX: (214) 740-2830
WRITER'S EMAIL ADDRESS: dweaver@brlaw.com

April 20, 2001

HAND DELIVERY
Jim Hamlin, District Clerk
14th District Court
George L. Allen Senior Courts Building
600 Commerce Street
Dallas, Texas 75202-4606

Re: Cause No. 00-08154-A; *Everett Ray Clark, et al. v. GAF Corporation, Inc., et al.* pending in the 14th Judicial District Court, Dallas County, Texas

Dear Mr. Hamlin:

Enclosed please find an original and one copy of the following documents for filing with the papers in this cause:

1. *Original Answer of Defendant Texas Power & Light Company, Inc. to Plaintiffs' First Amended Petition;*
2. *Certificate of Written Discovery to Plaintiffs – Requests for Disclosure, Request for Production and Interrogatories; and*
3. *Certificate of Written Discovery to Robert A. Hitchcock – Request for Production and Interrogatories.*

Please return a file-stamped copy of this document to our waiting messenger. Plaintiffs' counsel has been served with a copy of this document. If you have any questions, please do not hesitate to give me a call.

Sincerely,

BURFORD & RYBURN, L.L.P.

David M. Weaver

DMW:mt
Enclosures
cc: D. Leanne Jackson (via CM, RRR, No. 7099 3220 0002 3721 1244)

244421.1 302-2309

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WAYNE PEARSON
OF COUNSEL

April 20, 2001

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WRITER'S EMAIL ADDRESS:
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VIA CERTIFIED MAIL NO. 7099 3220 0002 3721 1244)
RETURN RECEIPT REQUESTED
D. Leanne Jackson
Baron & Budd
The Centrum, Suite 1100
3102 Oak Lawn Avenue
Dallas, Texas 75219

Re: Cause No. 00-08154-A; *Everett Ray Clark, et al. v. GAF Corporation, Inc., et al.* pending in the 14th Judicial District Court, Dallas County, Texas

Dear Ms. Jackson:

Enclosed please find the following documents with regard to the referenced matter:

1. Requests for Disclosure of Defendant Texas Power & Light Company, Inc. to Plaintiffs;
2. Request for Production of Defendant Texas Power & Light Company, Inc. to Plaintiffs;
3. Request for Production of Defendant Texas Power & Light Company, Inc. to Robert A. Hitchcock;
4. Interrogatories of Defendant Texas Power & Light Company, Inc. to Plaintiffs; and
5. Interrogatories of Defendant Texas Power & Light Company, Inc. to Robert A. Hitchcock.

Sincerely,

BURFORD & RYBURN, L.L.P.

David M. Weaver

DMW:mt
Enclosures

244422.1 302-2309