

June 8, 1999

Mr. C. Lance Terry
Senior Vice President
& Principal Nuclear Officer
TU Electric
ATTN: Regulatory Affairs Department
P. O. Box 1002
Glen Rose, Texas 76043

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2 - NOTICE OF
CONSIDERATION OF ISSUANCE OF AMENDMENTS RE: BATTERY
PERFORMANCE DISCHARGE TEST (TAC NOS. MA55443 AND MA55444)

Dear Mr. Terry:

Enclosed is a copy of a "Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing," related to your request for license amendments dated May 27, 1999, as supplemented by letter dated May 28, 1999. The amendments would add a footnote to Technical Specification 4.8.2.1e, "D.C. Sources - Operating," which would, on a one-time basis for Unit 1 Battery BT1ED2, allow TU Electric to substitute a performance discharge test "...in lieu of the battery service test required by Specification 4.8.2.1d, twice within a 60 month interval."

This notice has been forwarded to the Office of the Federal Register for publication.

Sincerely,

ORIGINAL SIGNED BY

David H. Jaffe, Senior Project Manager, Section 1
Project Directorate IV & Decommissioning
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-445 and 50-446

Enclosure: Notice

cc w/encl: See next page

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OP-1

Comanche Peak Steam Electric Plant

cc:

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Honorable Dale McPherson
County Judge
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Office of the Governor
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Environmental and Natural
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UNITED STATES NUCLEAR REGULATORY COMMISSIONTEXAS UTILITIES ELECTRIC COMPANYDOCKET NOS. 50-445 AND 446NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License No. NPF-87 and Facility Operating License No. NPF-89 issued to Texas Utilities Electric Company (the licensee, or TU), for operation of the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, respectively, located in Somervell County, Texas.

The proposed amendments would add a footnote to Technical Specification (TS) 4.8.2.1e, "D.C. Sources - Operating," which would, on a one-time basis for Unit 1 Battery BT1ED2, allow the licensee to substitute a performance discharge test "...in lieu of the battery service test required by Specification 4.8.2.1d, twice within a 60 month interval." The footnote further states that "[t]his one time exception expires prior to entry into MODE 4 following the next Unit 1 outage of sufficient duration to perform a service test." The proposed amendments would also add a footnote to the comparable Improved TS (ITS) that were issued by the NRC staff as License Amendments 64 and 64, to the CPSES, Units 1 and 2, Facility Operating Licenses on February 26, 1999, but not as yet implemented by the licensee. In this regard, ITS Surveillance Requirement 3.8.4.7 would receive the same footnote added to TS 4.8.2.1e with a minor grammatical change.

In the licensee's letter dated May 28, 1999, the licensee explained the exigent circumstances associated with its May 27, 1999, application. The licensee noted that the normal 30-day FEDERAL REGISTER notice period could not be utilized because the application results from the issuance of an enforcement discretion. The NRC responded to the licensee's May 26, 1999, request for an enforcement discretion by issuing a Notice of Enforcement Discretion (NOED) on June 2, 1999. The subject NOED indicated that the NRC staff plans to complete its review and issue the license amendments within 4 weeks of the date of the NOED, which is less time than permitted by the normal 30-day FEDERAL REGISTER notice period.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Crediting the battery performance discharge test in lieu of the required service test will not impact the ability of the battery to perform its safety functions. Therefore, this change will not increase the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Crediting the performance discharge test in lieu of the required service test will not create a new or different kind of accident.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Crediting the performance discharge test in lieu of the required service test does not create any new failure scenarios and no margin is expected to be reduced. As such, there is no reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the FEDERAL REGISTER a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page

number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 14, 1999, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P. O. Box 19497, Arlington, Texas. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the

nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

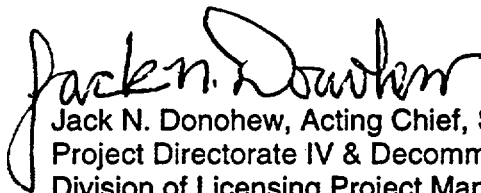
A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated May 27, 1999, as supplement by letter dated May 28, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P. O. Box 19497, Arlington, Texas.

Dated at Rockville, Maryland, this 7th day of June 1999.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, reading "Jack N. Donohew". The signature is written in a cursive style with a large initial "J".

Jack N. Donohew, Acting Chief, Section 1
Project Directorate IV & Decommissioning
Division of Licensing Project Management
Office of Nuclear Reactor Regulation