April 14, 1998

Mr. C. Lance Terry
TU Electric
Group Vice President, Nuclear
Attn: Regulatory Affairs Department
P. O. Box 1002
Glen Rose, TX 76043

SUBJECT: NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR HEARING - COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2 (TAC NOS. MA1489 AND MA1490)

Dear Mr. Terry:

The Commission has requested the Office of the Federal Register to publish the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing." This notice relates to your application for amendment dated April 9, 1998. The proposed amendment would allow on a one-time basis, the verification of the proper operation of the Unit 2 load shed seal-in contacts and the diesel generator trip bypass contacts at power, and defer the verification of the proper operation of the Unit 2 lockout relays and contacts until the startup from 2RFO4 or earlier outage to at least MODE 3.

Sincerely,

Original Signed By:
Timothy J. Polich, Project Manager
Project Directorate IV-1
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation

Docket Nos. 50-445 and 50-446

Enclosure: Notice of Consideration

cc w/encl: See next page

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 14, 1998

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TU Electric
Group Vice President, Nuclear
Attn: Regulatory Affairs Department
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Timothy J. Polich, Project Manager
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Division of Reactor Projects III/IV
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cc:

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Honorable Dale McPherson
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Environmental and Natural
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Bureau of Radiation Control
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Public Utility Commission of Texas
Electric Industry Analysis
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Austin, TX 78711-3326

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UNITED STATES NUCLEAR REGULATORY COMMISSION

TEXAS UTILITIES ELECTRIC

DOCKET NOS. 50-445 AND 50-446

NOTICE 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 an amendment to Facility Operating License Nos. NPF-87 and NPF-89, issued to Texas Utilities Electric Company, (TU Electric, the licensee), for operation of the Comanche Peak Steam Electric Station, Units 1 and 2, located in Somervell County, Texas.

The proposed amendment would allow on a one-time basis, the verification of the proper operation of the Unit 2 load shed seal-in contacts and the diesel generator trip bypass contacts at power and crediting performance of Surveillance Requirements (SR) 4.8.1.1.2f.4)a) and 4.8.1.1.2f.6)a), at power as opposed to "during shutdown" as currently required by those SR. The proposed amendment would also allow on a one-time basis the verification of the proper operation of the Unit 2 lockout relays and contacts to be deferred until the startup from 2RFO4 or earlier outage to at least MODE 3. The licensee promptly reported to the NRC at the time of discovery the failure to perform the testing required by the SR and promptly initiated corrective actions.

The licensee requested a Notice of Enforcement Discretion (NOED) by letter dated April 7, 1998. The NRC orally issued the NOED at 10:45 a.m. EDT on April 8, 1998. Pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.c, of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement

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Policy), NUREG-1600, the letter documenting the issuance of the NOED was dated April 10, 1998. The NOED was to be effective for the period of time it takes the NRC staff to process the proposed change to the TSs. Therefore, this amendment is being processed on an exigent bases.

Before issuance of the proposed license amendment, 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?

   The proposed change is to delay the performance of certain portions of the surveillance testing of specific devices and for the crediting of the at power testing of certain portions of shutdown surveillance requirements as previously described and listed in Table 1, 2 and 3. Delaying performance of these tests until such time as appropriate or crediting of at power testing of shutdown surveillance requirements does not increase the probability of an accident; therefore the probability of an accident previously evaluated is not increased.

   No plant equipment is adversely affected by not performing these surveillance tests. The consequences of an accident, as analyzed in the FSAR, does not increase from not having performed the testing. Based on the statements above and the expectation that the deferred testing and the at power testing will confirm

OPERABILITY, this change poses no increase in the consequences of a previously evaluated accident.

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

   Delaying the performance of tests and the crediting of at power testing of shutdown surveillance requirements are administrative actions and do not have the potential to create a new or different kind of accident from any previously evaluated. The systems will continue to respond in the same manner as they currently do.

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

   Delaying the performance of, or crediting the at power testing of shutdown surveillance requirements for those portions of the surveillance testing necessary to demonstrate the lockouts and seal-in circuitry, does not significantly reduce a margin of safety. The circuitry is expected to perform its design functions.

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 amendment 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 amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves 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 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 May 20, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license 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, TX 76019. 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 amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

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, 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, N.W., 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 amendment dated April 9, 1998, which is 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, TX 76019.

Dated at Rockville, Maryland, this 14th day of April 1998.

FOR THE NUCLEAR REGULATORY COMMISSION

Timothy J. Polich, Project Manager
Project Directorate IV-1
Division of Reactor Projects III/IV
Office of Nuclear Reactor Regulation