

May 7, 1991

Docket No. 50-482

Mr. Bart D. Withers
President and Chief Executive Officer
Wolf Creek Nuclear Operating Corporation
Post Office Box 411
Burlington, Kansas 66839

Dear Mr. Withers:

SUBJECT: WOLF CREEK GENERATING STATION - TRANSFER OF LICENSE

The Commission has forwarded the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing for Transfer of Ownership Interest and Opportunity for Public Comment on Antitrust Issues" to the Office of the Federal Register for publication.

This notices relates to the March 28, 1991, letter from the legal counsel representing the Kansas Gas and Electric Company (KG&E) requesting that their 47% undivided possession-only interest in NPF-42 be transferred, pursuant to 10 CFR 50.80, to a successor company as a result of the pending merger of KG&E with Kansas Power and Light Company (KPL). The notice also relates to the April 23, 1991, application, to amend the Wolf Creek operating license to add a footnote to the license that recognizes the transfer of KG&E's possession-only interest in the operating license to a wholly owned subsidiary of KPL.

Sincerely,

Original Signed By
Douglas V. Pickett, Project Manager
Project Directorate IV-2
Division of Reactor Projects - III/IV/V
Office of Nuclear Reactor Regulation

Enclosure:
Notice

cc w/enclosure:
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Mr. Bart D. Withers

- 2 -

May 7, 1991

cc w/enlosure:

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UNITED STATES NUCLEAR REGULATORY COMMISSIONWOLF CREEK NUCLEAR OPERATING CORPORATIONDOCKET NO. 50-482

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR HEARING
FOR TRANSFER OF OWNERSHIP INTEREST AND OPPORTUNITY
FOR PUBLIC COMMENT ON ANTITRUST ISSUES

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-42 issued to Wolf Creek Nuclear Operating Corporation (the licensee), for operation of the Wolf Creek Generating Station located in Coffey County, Kansas.

The Wolf Creek Generating Station is jointly owned by Kansas Gas and Electric Company (47 percent), Kansas City Power and Light Company (47 percent), and Kansas Electric Power Cooperative, Incorporated (6 percent). The Wolf Creek Nuclear Operating Corporation is responsible for operating the facility and acts as the agent for the owners.

By letter dated March 28, 1991, the legal counsel representing Kansas Gas and Electric Company (KG&E) submitted KG&E's request to transfer, pursuant to 10 CFR 50.80, its 47 percent undivided possession-only interest in NPF-42, the operating license for the Wolf Creek Generating Station. The proposed transfer is to a successor company, also to be called Kansas Gas and Electric Company, as a result of the pending merger of KG&E into a subsidiary of The Kansas Power and Light Company (KPL).

Also, by letter dated April 23, 1991, the legal counsel representing KG&E submitted a request to amend the Wolf Creek Operating License. The amendment would add a footnote to the license that recognizes the transfer

of KG&E's possession-only interest in NPF-42 to a wholly owned subsidiary of KPL. The transfer will occur upon the merger of KG&E with and into that subsidiary, which is presently in existence and named KCA Corporation. It will be renamed Kansas Gas and Electric Company immediately upon consummation of the merger. No other changes to the license are associated with the merger.

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.

The Commission has made a proposed determination that the request for amendment 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.

The licensee provided an analysis that addressed the above three standards in the amendment application. The staff has reviewed the licensee's analysis as follows:

1. The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. It reflects the merger of Kansas Gas and Electric Company into a wholly owned subsidiary of The Kansas Power and Light Company and as such has no effect on plant equipment or the technical qualification of plant personnel.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. It reflects the merger of Kansas Gas and Electric Company into a wholly owned subsidiary of The Kansas Power and Light Company and does not involve any change to the installed plant systems or the overall operating philosophy of Wolf Creek Generating Station.

3. The proposed change does not involve a significant reduction in a margin of safety. It does not involve any changes in overall organizational commitments. An ownership change alone does not reduce any margin of safety.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should cite the publication date and page number of this FEDERAL REGISTER notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C. 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 12, 1991, 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 petition for leave to intervene. Request for a hearing and petitions 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, D.C. 20555 and at the Local Public Document Rooms located at Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621. 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 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 fifteen (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 fifteen (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 a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

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

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

Normally, the Commission will not issue the amendment until the expiration of the 30-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 30-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 a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

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, D.C. 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C. 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George F. Dick: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this FEDERAL REGISTER notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Donald P. Irwin, Esq., Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219, attorney for KG&E and KPL.

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 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).

Antitrust Issues

Pursuant to 10 CFR 2.101 and 50.80 of the Commission's regulations, the staff is publishing receipt of KG&E's request to transfer the stated ownership interest in Wolf Creek to a successor company, also to be called Kansas Gas and Electric Company, as a result of the pending merger of KG&E into a subsidiary of KPL.

Any person who wishes to express views relating to any antitrust issues believed to be raised by this transfer request should submit said views within 30 days of the initial publication of this notice in the FEDERAL REGISTER to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Policy Development and Technical Support Branch, Office of Nuclear Reactor Regulation.

Although the staff is providing the opportunity for comments pursuant to the competitive aspects of the proposed transfer, the staff would like to note that it is aware of and is closely following the proceeding at the Federal Energy Regulatory Commission (FERC) that, among other concerns, is addressing competitive aspects of the proposed acquisition of KG&E by KPL. The NRC will consider the FERC proceeding to the maximum extent possible in resolving issues brought before the NRC.

For further details with respect to this action, see the request for license transfer dated March 28, 1991, and the application for amendment dated April 23, 1991, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W.,

Washington, D.C. 20555, and at the Local Public Document Rooms, located at Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 7th day of May 1991.

FOR THE NUCLEAR REGULATORY COMMISSION

Douglas V. Pickett

Douglas V. Pickett, Acting Director
Project Directorate IV-2
Division of Reactor Projects - III/IV/V
Office of Nuclear Reactor Regulation