May 15, 2003

Mr. C. Lance Terry
Senior Vice President
& Principal Nuclear Officer
TXU Energy
ATTN: Regulatory Affairs
P. O. Box 1002
Glen Rose, TX 76043

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION (CPSES), UNITS 1 AND 2 - ISSUANCE OF AMENDMENTS RE: DELETION OF UNNECESSARY LICENSE CONDITIONS AND REPORTING REQUIREMENTS (TAC NOS. MB5770 AND MB5771)

Dear Mr. Terry:

The U. S. Nuclear Regulatory Commission (NRC) has issued the enclosed Amendment No. 103 to Facility Operating License (FOL) No. NPF-87 and Amendment No. 103 to FOL No. NPF-89 for CPSES, Units 1 and 2, respectively. The amendments consist of changes to the FOLs and the Technical Specifications (TSs) in response to your application dated July 25, 2002, as supplemented by letters dated February 5 and February 11, 2003.

The amendments change the CPSES FOLs as follows: the license conditions related to Decommissioning Trusts, specified in Sections 2.C.(4)(a), 2.C.(4)(b), 2.C.(4)(d), 2.C(4)(e), and 2.C.(6) are deleted, and Section 2.E, which requires reporting any violations of the requirements contained in Section 2.C of the licenses, is deleted. Additionally, TS Table 5.5-2 “Steam Generator Tube Inspection,” TS Table 5.5-3, “Steam Generator Repaired Tube Inspection for Unit 1 Only,” and TS 5.6.10c, “Steam Generator Tube Inspection Report,” are revised to delete the requirement to notify the NRC pursuant to Section 50.72(b)(2), “Immediate notification requirements for operating nuclear power reactors,” of Title 10 of the *Code of Federal Regulations* if the steam generator tube inspection results are in a Category C-3 classification.

A copy of our related Safety Evaluation is enclosed. The Notice of Issuance will be included in the Commission's next biweekly *Federal Register* notice.

Sincerely,

/RA/

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

Docket Nos. 50-445 and 50-446

Enclosures:
1. Amendment No. 103 to NPF-87
2. Amendment No. 103 to NPF-89
3. Safety Evaluation

cc w/encls: See next page

Comanche Peak Steam Electric Station

cc:

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A copy of our related Safety Evaluation is enclosed. The Notice of Issuance will be included in the Commission's next biweekly *Federal Register* notice.

Sincerely,

/RA/

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

Docket Nos. 50-445 and 50-446

Enclosures: 1. Amendment No. 103 to NPF-87
2. Amendment No. 103 to NPF-89
3. Safety Evaluation

cc w/encls: See next page

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ADAMS Accession No.: ML031350770 *No legal objection **See change

OFFICE	PDIV-1/PM	PDIV-1/LA	RPRP/SC**	OGC*	EMCB/SC	PDIV-1/SC
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DATE	3/13/03	3/12/03	3/13/03	5/14/03	3/24/03	5/15/03

OFFICIAL AGENCY RECORD

TXU GENERATION COMPANY LP

COMANCHE PEAK STEAM ELECTRIC STATION, UNIT NO. 1

DOCKET NO. 50-445

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 103
License No. NPF-87

1. The Nuclear Regulatory Commission (the Commission) has found that:

   A. The application for amendment by TXU Generation Company LP dated July 25, 2002, as supplemented by letters dated February 5 and February 11, 2003, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;

   B. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission;

   C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;

   D. The issuance of this license amendment will not be inimical to the common defense and security or to the health and safety of the public; and

   E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the license is amended by changes to the license and Technical Specifications as indicated in the attachment to this license amendment and paragraph 2.C.(2) of Facility Operating License No. NPF-87 is hereby amended to read as follows:

(2) Technical Specifications and Environmental Protection Plan

The Technical Specifications contained in Appendix A, as revised through Amendment No. 103, and the Environmental Protection Plan contained in Appendix B, are hereby incorporated into this license. TXU Generation Company LP shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

3. Accordingly, the "Order Approving Transfer of Licenses and Conforming Amendments", dated December 21, 2001, is hereby superseded solely as to conditions III.(2)(a), III.(2)(b), III.(2)(d), III.(2)(e) and III.(4).

4. The license amendment is effective as of December 24, 2003, and shall be implemented within 60 days from that date.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Robert A. Gramm, Chief, Section 1
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment: Changes to the License
and Technical Specifications

Date of Issuance: May 13, 2003

TXU GENERATION COMPANY LP

COMANCHE PEAK STEAM ELECTRIC STATION, UNIT NO. 2

DOCKET NO. 50-446

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 103
License No. NPF-89

1. The Nuclear Regulatory Commission (the Commission) has found that:

   A. The application for amendment by TXU Generation Company LP dated July 25, 2002, as supplemented by letters dated February 5 and February 11, 2003, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;

   B. The facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission;

   C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;

   D. The issuance of this license amendment will not be inimical to the common defense and security or to the health and safety of the public; and

   E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the license is amended by changes to the license and Technical Specifications as indicated in the attachment to this license amendment and paragraph 2.C.(2) of Facility Operating License No. NPF-89 is hereby amended to read as follows:

(2) Technical Specifications and Environmental Protection Plan

The Technical Specifications contained in Appendix A, as revised through Amendment No. 103, and the Environmental Protection Plan contained in Appendix B, are hereby incorporated into this license. TXU Generation Company LP shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

3. Accordingly, the "Order Approving Transfer of Licenses and Conforming Amendments", dated December 21, 2001, is hereby superseded solely as to conditions III.(2)(a), III.(2)(b), III.(2)(d), III.(2)(e) and III.(4).

4. The license amendment is effective as of December 24, 2003, and shall be implemented within 60 days from that date.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Robert A. Gramm, Chief, Section 1
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment: Changes to the License
and Technical Specifications

Date of Issuance: May 15, 2003

ATTACHMENT TO LICENSE AMENDMENT NO. 103

TO FACILITY OPERATING LICENSE NO. NPF-87

AND AMENDMENT NO. 103

TO FACILITY OPERATING LICENSE NO. NPF-89

DOCKET NOS. 50-445 AND 50-446

Replace the following pages of licenses and the Appendix A Technical Specifications with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

FACILITY OPERATING LICENSE NO. NPF-87

Remove	Insert
Page 4	Page 4
Page 5	Page 5
Page 6	Page 6

FACILITY OPERATING LICENSE NO. NPF-89

Remove	Insert
Page 4	Page 4
Page 5	Page 5
Page 6	Page 6

APPENDIX A TECHNICAL SPECIFICATIONS

Remove	Insert
5.0-19	5.0-19
5.0-19a	5.0-19a
5.0-36	5.0-36

(3) Antitrust Conditions

DELETED

(4) License Transfer

The TXU Generation Company LP Decommissioning Master Trust Agreement for the facility at the time the license transfers are effected and thereafter, is subject to the following:

(a) DELETED

(b) DELETED

(c) The appropriate section of the decommissioning trust agreement must state that investments made in trust by the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to investment guidelines established by the PUCT (e.g., 16 Texas Administration Code 25.301);

(d) DELETED

(e) DELETED

(5) License Transfer

TXU Generation Company LP shall provide decommissioning funding assurance, to be held in a decommissioning trust for the facility upon the direct transfer of the facility license to TXU Generation Company LP, in an amount equal to or greater than the balance in the facility decommissioning trusts immediately prior to the transfer. In addition, TXU Generation Company LP shall ensure that all contractual arrangements referred to in the application for approval of the transfer of the facility license to TXU Generation Company LP, to obtain necessary decommissioning funds for the facility through a non-bypassable charge are executed and will be maintained until the decommissioning trusts are fully funded, or shall ensure that other mechanisms that provide equivalent assurance of decommissioning funding in accordance with the Commission's regulations are maintained.

(6) License Transfer

DELETED

(7) License Transfer

TXU Generation Company LP and its subsidiaries agree to provide the Director, Office of Nuclear Reactor Regulation, a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from TXU Generation Company LP or its subsidiaries to its proposed parent, or to any other affiliated company, facilities for the production of electric energy having a depreciated book value exceeding ten percent (10%) of such licensee's consolidated net utility plant, as recorded on TXU Generation Company LP's book of accounts.

D. The following exemptions are authorized by law and will not endanger life or property or the common defense and security. Certain special circumstances are present and these exemptions are otherwise in the public interest. Therefore, these exemptions are hereby granted pursuant to 10 CFR 50.12.

(1) The facility requires a technical exemption from the requirements of 10 CFR Part 50, Appendix J, Section III.D.2(b)(ii). The justification for this exemption is contained in Section 6.2.5 of Supplement 22 to the Safety Evaluation Report dated January 1990. The staff's environmental assessment was published on November 14, 1989 (54 FR 47430).

Therefore, pursuant to 10 CFR 50.12(a)(1), and 10 CFR 50.12(a)(2)(ii) and (iii), the Comanche Peak Steam Electric Station, Unit 1 is hereby granted an exemption from the cited requirement and instead, is required to perform the overall air lock leak test at pressure P_a prior to establishing containment integrity if air lock maintenance has been performed that could affect the air lock sealing capability.

(2) The facility was previously granted an exemption from the criticality monitoring requirements of 10 CFR 70.24 (see Materials License No. SNM-1912 dated December 1, 1988 and Section 9.1.1 of Supplement 22 to the Safety Evaluation Report dated January 1990). The staff's environmental assessment was published on November 14, 1989 (54 FR 47432). The Comanche Peak Steam Electric Station, Unit 1 is hereby exempted from the criticality monitoring provisions of 10 CFR 70.24 as applied to fuel assemblies held under this license.

(3) The facility requires a temporary exemption from the schedular requirements of 10 CFR 50.33(k) and 10 CFR 50.75. The justification for this exemption is contained in Section 20.6 of Supplement 22 to the Safety Evaluation Report dated January 1990. The staffs environmental assessment was published on November 14, 1989 (54 FR 47431). Therefore, pursuant to 10 CFR 50.12(a)(1), 50.12(a)(2)(iii) and 50.12(a)(2)(v), the Comanche Peak Steam Electric Station, Unit 1 is hereby granted a temporary exemption from the schedular requirements of 10 CFR 50.33(k) and 10 CFR 50.75 and is required to submit a decommissioning funding report for Comanche Peak Steam Electric Station, Unit 1 on or before July 26, 1990.

E. DELETED

F In order to ensure that TXU Generation Company LP will exercise the authority as the surface landowner in a timely manner and that the requirements of 10 CFR Part 100.3 (a) are satisfied, this license is subject to the additional conditions specified below: (Section 2.1.1, SER)

(1) For that portion of the exclusion area which is within 2250 ft of any seismic Category I building or within 2800 ft of either reactor containment building, TXU Generation Company LP must prohibit the exploration and/or exercise of subsurface mineral rights, and if the subsurface mineral rights owners attempt to exercise their rights within this area, TXU Generation Company LP must immediately institute immediately effective condemnation proceedings to obtain the mineral rights in this area.

(4) License Transfer

The TXU Generation Company LP Decommissioning Master Trust Agreement for the facility at the time the license transfers are effected and thereafter, is subject to the following:

(a) DELETED

(b) DELETED

(c) The appropriate section of the decommissioning trust agreement must state that investments made in trust by the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to investment guidelines established by the PUCT (e.g., 16 Texas Administration Code 25.301);

(d) DELETED

(e) DELETED

(5) License Transfer

TXU Generation Company LP shall provide decommissioning funding assurance, to be held in a decommissioning trust for the facility upon the direct transfer of the facility license to TXU Generation Company LP, in an amount equal to or greater than the balance in the facility decommissioning trusts immediately prior to the transfer. In addition, TXU Generation Company LP shall ensure that all contractual arrangements referred to in the application for approval of the transfer of the facility license to TXU Generation Company LP, to obtain necessary

decommissioning funds for the facility through a non-bypassable charge are executed and will be maintained until the decommissioning trusts are fully funded, or shall ensure that other mechanisms that provide equivalent assurance of decommissioning funding in accordance with the Commission's regulations are maintained.

(6) License Transfer

DELETED

(7) License Transfer

TXU Generation Company LP and its subsidiaries agree to provide the Director, Office of Nuclear Reactor Regulation, a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from TXU Generation Company LP or its subsidiaries to its proposed parent, or to any other affiliated company, facilities for the production of electric energy having a depreciated book value exceeding ten percent (10%) of such licensee's consolidated net utility plant, as recorded on TXU Generation Company LP's book of accounts.

D. The following exemptions are authorized by law and will not endanger life or property or the common defense and security. Certain special circumstances are present and these exemptions are otherwise in the public interest. Therefore, these exemptions are hereby granted:

(1) The facility requires a technical exemption from the requirements of 10 CFR Part 50, Appendix J, Section III.D.2(b)(ii). The justification for this exemption is contained in Section 6.2.5.1 of Supplement 26 to the Safety Evaluation Report dated February 1993. The staff's environmental assessment was published on January 19, 1993 (58 FR 5036). Therefore, pursuant to 10 CFR 50.12(a)(1), 10 CFR 50.12(a)(2)(ii) and (iii), the Comanche Peak Steam Electric Station, Unit 2 is hereby granted an exemption from the cited requirement and instead, is required to perform the overall air lock leak test at pressure P_a prior to establishing containment integrity if air lock maintenance has been performed that could affect the air lock sealing capability.

The facility was previously granted exemption from the criticality Monitoring requirements of 10 CFR 70.24 (see Materials License No. SNM-1986 dated April 24,1989 and Section 9.1.1 of SSER 26 dated February 1993.) The staff's environmental assessment was published on

January 19, 1993 (58 FR 5035). The Comanche Peak Steam Electric Station, Unit 2 is hereby exempted from the criticality monitoring provisions of 10 CFR 70.24 as applied to fuel assemblies held under this license.

E. DELETED

F. In order to ensure that TXU Generation Company LP will exercise the authority as the surface landowner in a timely manner and that the requirements of 10 CFR 100.3 (a) are satisfied, this license is subject to the additional conditions specified below: (Section 2.1, SER)

(1) For that portion of the exclusion area which is within 2250 ft of any seismic Category I building or within 2800 ft of either reactor containment building, TXU Generation Company LP must prohibit the exploration and/or exercise of subsurface mineral rights, and if the subsurface mineral rights owners attempt to exercise their rights within this area, TXU Generation Company LP must immediately institute immediately effective condemnation proceedings to obtain the mineral rights in this area.

(2) For the unowned subsurface mineral rights within the exclusion area not covered in item (1), TXU Generation Company LP will prohibit the exploration and/or exercise of mineral rights until and unless the licensee and the owners of the mineral rights enter into an agreement which gives TXU Generation Company LP absolute authority to determine all activities - including times of arrival and locations of personnel and the authority to remove personnel and equipment - in event of emergency. If the mineral rights owners attempt to exercise their rights within this area without first entering into such an agreement, TXU Generation Company LP must immediately institute immediately effective condemnation proceedings to obtain the mineral rights in this area.

(3) TXU Generation Company LP shall promptly notify the NRC of any attempts by subsurface mineral rights owners to exercise mineral rights, including any legal proceeding initiated by mineral rights owners against TXU Generation Company LP.

G. TXU Generation Company LP shall implement and maintain in effect all provisions of the approved fire protection program as described in the Final Safety Analysis Report through Amendment 87 and as approved in the SER (NUREG-0797) and its supplements through SSER 27, subject to the following provision:

5.5 Programs and Manuals

5.5.9 Steam Generator (SG) Tube Surveillance Program (continued)

TABLE 5.5-2
STEAM GENERATOR TUBE INSPECTION

	1ST SAMPLE INSPECTION		2ND SAMPLE INSPECTION		3RD SAMPLE INSPECTION	
Sample size	Result	Action Required	Result	Action Required	Result	Action Required
A minimum of S Tubes per S.G.	C-1	None	N.A.	N.A.	N.A.	N.A.
	C-2	Plug or repair* defective tubes and inspect additional 2S tubes in this S.G.	C-1	None	N.A.	N.A.
			C-2	Plug or repair* defective tubes and inspect additional 4S tubes in this S.G.	C-1	None
					C-2	Plug or repair* defective tubes
					C-3	Perform action for C-3 result of first sample
			C-3	Perform action for C-3 result of first sample	N.A.	N.A.
	C-3	Inspect all tubes in this S.G., plug or repair* defective tubes and inspect 2S tubes in each other S.G.	All other S.G.s are C-1	None	N.A.	N.A.
			Some S.G.s C-2 but no additional S.G. C-3	Perform action for C-2 result of second sample	N.A.	N.A.
			Additional S.G. is C-3	Inspect all tubes in each S.G. and plug or repair* defective tubes.	N.A.	N.A.

(continued)

S - 12/n% Where n is the number of steam generators inspected during an inspection
* for Unit 1 only

5.5.9 Steam Generator (SG) Tube Surveillance Program (continued)

TABLE 5.5-3
STEAM GENERATOR REPAIRED TUBE INSPECTION FOR UNIT 1 ONLY

1ST SAMPLE INSPECTION			2ND SAMPLE INSPECTION	
Sample Size	Result	Action Required	Result	Action Requird
A minimum of 20% of repaired tubes (1)	C-1	None	N.A.	N.A.
	C-2	Plug defective repaired tubes and inspect 100% of the repaired tubes in this S.G.	C-1	None
			C-2	Plug defective repaired tubes
			C-3	Perform action for C-3 result of first sample
	C-3	Inspect all repaired tubes in this S.G., plug defective tubes and inspect 20% of the repaired tubes in each other S.G.	All other S.G.s are C-1	None
			Same S.G.s C-2 but no additional S.G. are C-3	Perform action for C-2 result of first sample
			Additional S.G. is C-3	Inspect all repaired tubes in each S.G. and plug defective tubes.

(continued)

(1) Each repair method is considered a separate population for determination of initial inservice inspection and scope expansion.

5.6 Reporting Requirements (continued)

5.6.7 Not used

5.6.8 PAM Report

When a report is required by the required actions of LCO 3.3.3, "Post Accident Monitoring (PAM) Instrumentation," a report shall be submitted within the following 14 days. The report shall outline the preplanned alternate method of monitoring, the cause of the inoperability, and the plans and schedule for restoring the instrumentation channels of the Function to OPERABLE status.

5.6.9 Not used

5.6.10 Steam Generator Tube Inspection Report

a. Within 15 days following the completion of each inservice inspection of steam generator tubes, the number of tubes plugged, repaired or designated as an F* tube in each steam generator shall be reported to the Commission;

b. The complete results of the steam generator tube inservice inspection shall be submitted to the Commission in a report within 12 months following the completion of the inspection. This report shall include:

1) Number and extent of tubes and (for Unit 1 only) sleeves inspected.

2) Location and percent of wall-thickness penetration for each indication of an imperfection, and

3) Identification of tubes plugged or repaired.

c. Results of steam generator tube inspections which fall into Category C-3 shall be reported to the Commision in a report within 30 days and prior to resumption of plant operation. This report shall provide a description of investigations conducted to determine cause of the tube degradation and corrective measures taken to prevent recurrence.

(continued)

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

RELATED TO AMENDMENT NO. 103 TO

FACILITY OPERATING LICENSE NO. NPF-87

AND AMENDMENT NO. 103 TO

FACILITY OPERATING LICENSE NO. NPF-89

TXU GENERATION COMPANY LP

COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2

DOCKET NOS. 50-445 AND 50-446

1.0 INTRODUCTION

By application to the U. S. Nuclear Regulatory Commission (NRC, the staff) dated July 25, 2002, as supplemented by letters dated February 5 and February 11, 2003, TXU Generation Company LP (the licensee), requested changes to the Facility Operating Licenses (FOLs) and Technical Specifications (TSs) for Comanche Peak Steam Electric Station (CPSES), Units 1 and 2. The staff's proposed no significant hazards consideration determination as published in the *Federal Register* on (68 FR 10282) addresses the application dated July 25, 2002. A second *Federal Register* notice addressed the no significant hazards consideration determination (68 FR 10282) associated with the supplement dated February 5, 2003. The supplement dated February 11, 2003, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's proposed no significant hazards consideration determination or expand the scope of the original *Federal Register* notice. (68 FR 10282)

The proposed amendments would change the CPSES FOLs as follows: the license conditions, related to Decommissioning Trusts, specified in FOL NPF-87 and FOL NPF-89, Sections 2.C.(4)(a), 2.C.(4)(b), 2.C.(4)(d), 2.C.(4)(e), and 2.C.(6) would be deleted, and Section 2.E, which requires reporting any violations of the requirements contained in Section 2.C of the licenses, would be deleted. Additionally, TS Table 5.5-2, "Steam Generator Tube Inspection," TS Table 5.5-3, "Steam Generator Repaired Tube Inspection for Unit 1 Only," and TS 5.6.10c, "Steam Generator Tube Inspection Report," would be revised to delete the requirement to notify the NRC pursuant to Section 50.72(b)(2), "Immediate notification requirements for operating nuclear power reactors," of Title 10 of the *Code of Federal Regulations* (10 CFR) if the steam generator (SG) tube inspection results are in a Category C-3 classification.

2.0 REGULATORY EVALUATION

The staff finds that the licensee in Section 5.2 of its July 25, 2002, and February 5, 2003, submittals identified the applicable regulatory requirements. The regulatory requirements on which the staff based its acceptance are 10 CFR 50.72, "Immediate notification requirements for operating nuclear power reactors," 10 CFR 50.73, "Licensee event report system," and 10 CFR 50.75, "Reporting and recordkeeping for decommissioning planning."

3.0 TECHNICAL EVALUATION

The staff has reviewed the licensee's regulatory and technical analyses in support of its proposed license amendments which are described in Section 5.2 of the licensee's submittal. The detailed evaluation below will support the conclusion that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

3.1 Decommissioning Trust Agreement

On December 24, 2002, the NRC published a notice in the *Federal Register* (67 FR 78332) which revised its requirements in 10 CFR Parts 50 and 72 concerning decommissioning trust provisions for nuclear power plants. Prior to this time, non-electric utility license transferees, such as the CPSES licensee, had decommissioning trust provisions incorporated in their FOLs as license conditions. Since the requirements of revised 10 CFR 50.75 will apply to the licensee on the effective date of the revisions, the decommissioning trust provisions in FOL NPF-87 and FOL NPF-89 will be redundant as described by the following analysis of the license conditions and how they are satisfied by the revisions to 10 CFR 50.75:

1. 2.C.(4)(a) "The decommissioning trust agreement must be in a form acceptable to the NRC."

   While this wording is not explicitly stated in the revised regulations of 10 CFR 50.75, this license condition is the basic focus of the subject Final Rule as stated in the summary preceding the Final Rule. This condition is implicit within the Final Rule; financial assurance methods and "a form acceptable to the NRC" are addressed in 10 CFR 50.75(e) and (h).

2. 2.C.(4)(b) "With respect to the decommissioning trust funds, investments in the securities or other obligations of TXU Generation Company LP, or its affiliates, successors, or assigns shall be prohibited; except for investments tied to market indices or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited;"

   This license condition is now addressed in the regulations at 10 CFR 50.75(h)(1)(i)(A). The Final Rule contains additional NRC response and clarification for this regulation under "Comments on the Proposed Rule - 4.B. Restrictions on Funds, Investment in Nuclear Power Reactor Licensees."

3. 2.C.(4)(d) "The decommissioning trust agreement must provide that except for ordinary administrative costs, no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first provided 30 days prior written notice of such disbursement or payment to the NRC and the trustee has not received prior written notice of objection from the Director, Office of Nuclear Reactor Regulation; and"

   This license condition is now addressed in the regulations at 10 CFR 50.75(h)(1)(iv). The Final Rule contains additional NRC response and clarification for this regulation under "Comments on the Proposed Rule - 3. Notifications and Disbursements."

4. 2.C.(4)(e) "The decommissioning trust agreement must provide that the agreement cannot be modified in any material respect without first providing 30 days prior written notice to the Director, Office of Nuclear Reactor Regulation."

   This license condition is now addressed in the regulations at 10 CFR 50.75(h)(1)(iii). The Final Rule contains additional NRC response and clarification for this regulation under "Comments on the Proposed Rule - 4.E. Modifications to Trusts."

5. 2.C.(6) "TXU Generation Company LP shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application for approval of the transfer of the facility license to TXU Generation Company LP, the requirements of this Order approving the transfer, and the related safety evaluation."

   This license condition is no longer needed based on the implicit requirements of the Final Rule and the current regulations of 10 CFR 50.75. The Final Rule contains additional NRC response and clarification that addresses this license condition under "Comments on the Proposed Rule - 1. General Comments on the Proposed Action." The NRC response, in part, is "the NRC has always believed that it is preferable and more efficient to adopt standard rules, as opposed to applying specific license conditions on a case-by-case basis."

Based upon the above, the provisions of FOL NPF-87 and FOL NPF-89 Sections 2.C.(4)(a), 2.C.(4)(b), 2.C.(4)(d), 2.C(4)(e), and 2.C.(6) should be deleted.

On December 21, 2001, the NRC issued an "Order Approving Transfer of Licenses and Conforming Amendments", which contained conditions equivalent to FOL Sections 2.C.(4)(a), 2.C.(4)(b), 2.C.(4)(d), 2.C(4)(e) and 2.C.(6). For the same reasons cited above, these conditions in the December 21, 2001 "Order Approving Transfer of Licenses and Conforming Amendments", are no longer required and are superseded by this license amendment as to Sections 2.C.(4)(a), 2.C.(4)(b), 2.C.(4)(d), 2.C(4)(e) and 2.C.(6), only.

3.2 Reporting Requirements in NPF-87 and NPF-89

FOL Section 2.E. states the following:

> With the exception of 2.C(2) [Technical Specifications and Environmental Protection Plan] and 2.C(3) [Antitrust Conditions], TXU Generation Company LP

> shall report any violations of the requirements contained in Section 2.C of this license within 24 hours. Initial notification shall be made in accordance with the provisions of 10 CFR 50.72 with written follow-up in accordance with the procedures described in 10 CFR 50.73(b), (c), and (e).

The reporting requirements of 10 CFR 50.72 and 10 CFR 50.73 are intended to inform the NRC of occurrences which have the potential to affect the health and safety of the public. Of the remaining provisions of Section 2.C, only C.(1), "Maximum Power Level," contains a provision which, if violated, could affect the health and safety of the public; the remaining provisions of Section 2.C address license transfer issues.

With regard to the reportability of exceeding the "Maximum Power Level", the effects of those instances that could affect the health and safety of the public are reportable under 10 CFR 50.72 and/or 10 CFR 50.73 (e.g., "the nuclear power plant being in an unanalyzed condition that significantly degrades plant safety" is reportable under 10 CFR 50.72(b)(3)(ii) and 10 CFR 50.73(a)(2)(ii)). Accordingly, since the safety-significant effects of over-power conditions are reportable under 10 CFR 50.72 and/or 10 CFR 50.73 and the remaining applicable conditions of FOL Section 2.C, if violated, need not be reported under the provisions of Section 2.E, the provisions of FOL NPF-87 and FOL NPF-89, Section 2.E should be deleted.

3.3 Deletion of Certain Reporting Requirements for Steam Generator Tube Inspection Results in Category C-3

In TS Tables 5.5-2 and 5.5-3, the statement "Notification to NRC pursuant to 10 CFR 50.72(b)(2)" is given in two columns near the bottom of the table for Category C-3; the same requirement also appears in TS 5.6.10c. The licensee has proposed to delete these statements.

With regard to the current requirements of 10 CFR 50.72(b)(2), the reference to 10 CFR 50.72(b)(2) is incorrect because the NRC issued a final rule on October 25, 2000 (65 FR 63769), that changed the paragraph. In the current regulations, 10 CFR 50.72(b)(2) requires reporting of the declaration of an emergency class specified in the approved emergency plan, a deviation from the technical specifications pursuant to 10 CFR 50.54(x), any plant shutdown required by the TSs, any event that results or should have resulted in emergency core cooling system discharge as a result of a valid signal, any event that results in actuation of the reactor protection system when the reactor is critical, and any event related to the health and safety of the public or onsite personnel, or protection of environment, for which a news release is planned. Therefore, 10 CFR 50.72(b)(2) no longer applies to the Category C-3 condition in TS Table 5.5-2, TS Table 5.5-3, and TS 5.6.10c.

Prior to the rule change on October 25, 2000, 10 CFR 50.72(b) contained seven four-hour reporting requirements, one of which applied to SG tubes that were found to be degraded. Paragraph 50.72(b)(2)(i) required a four-hour notification of the NRC Operations Center of "Any event, found while the reactor is shut down, that, had it been found while the reactor was in operation, would have resulted in the nuclear power plant, including its principal safety barriers, being seriously degraded or being in an unanalyzed condition that significantly comprises plant safety." As noted above, this regulation was deleted by the rule change.

The current 10 CFR 50.72(b)(3)(ii) requires an eight-hour report for "Any event or condition that

results in: (A) The condition of the nuclear power plant, including its principal safety barriers, being seriously degraded; or (B) The nuclear power plant being in an unanalyzed condition that significantly degrades plant safety." A licensee must comply with Paragraph 50.72(b)(3)(ii) regardless of whether or not reporting of degraded SG tubes is required by the TSs.

In promulgating the October 25, 2000, rule change, the NRC determined that reporting events of the type discussed in the previous paragraph within eight hours is acceptable. Therefore, the difference between the previous four-hour report in 10 CFR 50.72(b)(2) and the current eight-hour report in 10 CFR 50.72(b)(3)(ii) is not considered important because the rule change for 10 CFR 50.72 approved the eight-hour reporting requirement for a nuclear power plant being in an unanalyzed condition or having principal safety barriers seriously degraded, and the licensee must comply with 10 CFR 50.73(b)(3)(ii) even if TS Table 5.5.9-2 does not list a reference to 10 CFR 50.72(b). However, as stated in NUREG-1022, "Event Reporting Guidelines: 10 CFR 50.72 and 50.73," Revision 2, reporting in accordance with 10 CFR 50.72(b)(3)(ii) would mean that SG tube structural or leakage integrity safety margins are exceeded. This condition is not equivalent to Category C-3, which only means that more than one percent of the tubes are defective and are required to be plugged. In other words, a plant's SG tubes can be in Category C-3 without exceeding structural or leakage integrity safety margins. Therefore, it is not sufficient that 10 CFR 50.72(b)(3)(ii) exists for the staff to conclude that the reporting requirements in TS Tables 5.5-2, TS Table 5.5-3, and TS 5.6.10c for Category C-3 are duplicated by the current regulations.

Although TS 5.6.10c requires that results of SG tube inspections, which fall into Category C-3, shall be reported to NRC, this requirement does not duplicate the reporting requirement in TS Tables 5.5-2 and 5.5-3 because the two reporting requirements differ as to when and how the reports should be made. The reporting requirement in TS Tables 5.5-2 and 5.5-3 has a four-hour requirement to notify the NRC in accordance with 10 CFR 50.72(b)(2), and the reporting requirement in TS 5.6.10c has the requirement to notify the Commission within four hours pursuant to 10 CFR 50.72(b)(2) and submit a report to the Commission within 30 days prior to resumption of plant operation. The SG tube inspections are conducted in plant shutdowns, typically during refueling outages.

Although TS 5.6.10c does not duplicate the reporting requirements in TS Tables 5.5-2 and 5.5-3, the staff concludes that the notification on a Category C-3 condition prior to restart, but no later than 30 days, is an appropriate time frame because the staff will be promptly notified per the current 10 CFR 50.72(b)(3)(ii) if the plant's SGs have the more significant inspection result of having seriously degraded safety barriers. Because the staff concludes that the report in TS 5.6.10c on the Category C-3 condition requires reporting of the Category C-3 condition in an appropriate time frame, the staff also concludes that the proposed deletion of the requirement to notify the Commission pursuant to 10 CFR 50.72(b)(2) from TS Table 5.5-2, TS Table 5.5-3, and TS 5.6.10c is acceptable. In addition, further rule changes to 10 CFR 50.72 will not require changes to TS Table 5.5.-2, TS Table 5.5-3, and TS 5.6.10c.

4.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Texas State official was notified of the proposed issuance of the amendment. The State official had no comments.

5.0 ENVIRONMENTAL CONSIDERATION

Pursuant to 10 CFR 51.21, 10 CFR 51.32, and 10 CFR 51.35, an Environmental Assessment and Finding of No Significant Impact was published in the *Federal Register* on December 9, 2002 (67 FR 72984). Accordingly, based upon the Environmental Assessment, the Commission has determined that the issuance of the amendments will not have a significant effect on the quality of the human environment.

6.0 CONCLUSION

The Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

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