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C. Lance Terry
Senior Vice President &
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Ref: EA-03-086

CPSES-200301168
Log # TXX-03099

June 3, 2003

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

Office of the Secretary of the Commission
U.S. Nuclear Regulatory Commission
ATTN: Rulemaking and Adjudications Staff
Washington, DC 20555

**SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION
(CPSES)
DOCKET NOS. 50-445 AND 50-446
35 DAY RESPONSE AND REQUEST FOR
CLARIFICATION IN RESPONSE TO NRC ORDER
REQUIRING COMPLIANCE WITH REVISED DESIGN
BASIS THREAT (DBT) FOR OPERATING POWER
REACTORS
(EA-03-086)**

REFERENCE:

1. Letter dated April 29, 2003, from S. J. Collins, USNRC, Holders of Licenses for Operating Power Reactors, Order Requiring Compliance with Revised Design Basis Threat for Operating Power Reactors
2. Letter dated May 16, 2003, from J. F. Colvin, NEI, to N. J. Diaz, USNRC

Gentlemen:

Section IV of the April 29, 2003, Order Requiring Compliance with Revised Design Basis Threat for Operating Power Reactors (EA-03-086) ("Order") states that, in accordance with 10 CFR §2.202, a licensee must submit an answer to the Order and

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may request a hearing on the Order within 35 days of the date of the Order. This letter constitutes TXU Generating Company LP (TXU Energy)'s answer (pursuant to 10 CFR §2.202 and Section IV) and response (pursuant to 10 CFR §50.4 and Sections III A.1, B.1, B.2 and C to the Order).

Section II of the Order states that "In order to provide assurance that licensees are implementing prudent measures to protect against the revised DBT, all licenses identified in Attachment 1 to this Order shall be modified to require that the physical security plans, safeguards contingency plans, and the guard training and qualification plans required by 10 C.F.R. §§ 50.34(c), 50.34(d), and 73.55(b)(4)(ii) be revised to provide protection against this revised DBT."

TXU Energy consents to the Order, and does not request a hearing. TXU Energy notes the request for clarification of five DBT issues provided in the safeguards attachment to the letter from Mr. Colvin, President and CEO of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003 (reference 2). TXU Energy encourages the Commission to respond to this request as soon as possible, as the Commission's clarifications may affect the manner of TXU Energy's compliance with the Order.

Because the Nuclear Regulatory Commission (NRC) has used force-on-force testing as a standard by which compliance with the DBT was evaluated, TXU Energy also requests that the NRC provide a clear definition of the objectives and criteria for force-on-force exercises so that appropriate revisions can be made to safeguards contingency plans, security plans and security officer training and qualification plans.

Specifically, TXU Energy needs a clear explanation of the purpose of the force-on-force exercise (e.g., is the purpose of force-on-force exercises for security officer training, or to evaluate licensee compliance with the Design Basis Threat?). Similarly, the success criteria for the force-on-force exercise needs to be established (e.g., is the criterion prevention of a large offsite release which would be consistent with the basis for risk-informing NRC regulations, or some other criteria?). Finally, if a force-on-force exercise is going to be used as a performance test of the licensee's ability to protect against the Design Basis Threat, a clear definition of adversary rules of engagement and adversary tactics is needed to provide appropriate predictability and stability in the regulatory program. Absent these clarifications, the standard by which licensee performance will be measured will continue to be a constantly moving target which is counter to the Commission's Principles of Good Regulation.

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To enable TXU Energy to meet the compliance dates specified in the Order, those clarifications are needed as soon as possible. If the clarifications cannot be provided by October 1, 2003, we respectfully request that the Director, Nuclear Reactor Regulation extend the dates for submitting the revision to the security plan, the safeguards contingency plan, the security officer training and qualification plan, and for full implementation be extended on a day-for-day basis until such clarifications are provided.

TXU Energy also confirms its understanding that the Commission intends to exercise enforcement discretion to accommodate issues which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order. TXU Energy further understands that the Commission will exercise enforcement discretion for the period necessary to resolve such issues, and to integrate the requirements of this Order with the orders issued February 25, 2002, as well as with other pertinent regulatory requirements, and our safeguards contingency plans, security plans and security officer training and qualification plans.

This response is hereby submitted to the Commission in accordance with 10 CFR §50.4 and 10 CFR §2.202. No new commitments have been identified associated with this Order because all changes are obligatory and effect changes to facility licenses.

If you have any questions concerning this matter, please contact me at (254) 897-8920, or Mr. Don Alps at (254) 897-5432.

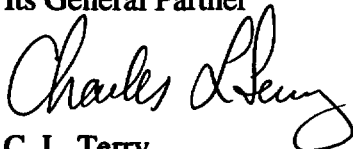
I state under penalty of perjury that the foregoing is true and correct.

Executed on June 3, 2003.

Sincerely,

TXU Generation Company LP

By: TXU Generation Management Company LLC,
Its General Partner



C. L. Terry
Senior Vice President and Principal Nuclear Officer

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NSH/nh

Attachment

c.:

T. P. Gwynn, Region IV

W. D. Johnson, Region IV

D. H. Jaffe, NRR

Resident Inspectors, CPSES

Assistant General Counsel for Materials Litigation and Enforcement (NRC)

Director, Office of Nuclear Reactor Regulation (NRC)

ATTACHMENT 1 to TXX-03099

**TXU Energy's Response to Order Requiring Compliance with Revised Design Basis
Threat for Operating Power Reactors**

Section III of the Order Requiring Compliance With Revised Design Basis Threat (DBT) for Operating Power Reactors, dated April 29, 2003, set forth the Conditions identified below. TXU Energy's response to Order Conditions A.1., B.1., B.2., and C. is provided on the following page.

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- A.1.** All licensees shall, notwithstanding the provisions of any Commission regulation, license, or order to the contrary, revise their physical security plans and safeguards contingency plans, prepared pursuant to 10 C.F.R. §§ 50.34(c) and 50.34(d), to provide protection against the DBT set forth in Attachment 2 to this Order. In addition, all licensees shall, notwithstanding the provisions of any Commission regulation, license, or order to the contrary, revise their guard training and qualification plans, required by 10 C.F.R. § 73.55(b)(4)(ii), to implement the DBT set forth in Attachment 2 to this Order. The licensees shall submit the revised physical security plans, safeguards contingency plans, and guard training and qualification plans, including an implementation schedule, to the Commission for review and approval no later than April 29, 2004.
- B.1.** All licensees shall, within thirty-five (35) days of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements of this Order, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from, or variation of, any specific requirement.
- B.2.** Any licensee that considers that implementation of any of the requirements of this Order would adversely impact safe operation of the facility must notify the Commission, within thirty-five (35) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives of this Order, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, the licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

- C. All licensees shall report to the Commission, in writing, when they have fully implemented the approved revisions to their physical security plans, safeguards contingency plans, and guard training and qualification plans, to protect against the DBT described in Attachment 2 to this Order.

TXU Energy provides following response to the reporting requirements of this Order:

- A.1. TXU Energy will revise the Comanche Peak Steam Electric Station (CPSES) Physical Security Plan, CPSES Safeguards Contingency Plan, and CPSES Security Training and Qualification Plan in accordance with Attachment 2 of the Order. Pending response from the NRC, TXU Energy will submit these revised plans and the implementation schedule to the NRC by April 29, 2004.

- B.1.
 - (1) TXU Energy can and will comply with all requirements of this Order.
 - (2) TXU Energy knows of no specific circumstances where this Order would be unnecessary at CPSES.
 - (3) TXU Energy knows of no specific circumstances where implementation of the requirements of this Order will cause TXU Energy to be in violation of the provisions of any Commission regulation or the facility license.

TXU Energy is not seeking relief from the requirements of the Order, ~~at this time.~~

- B.2. The safe operation of CPSES is not adversely impacted by implementation of the requirements of this Order.
- C. TXU Energy will notify the Commission, in writing, when the approved revisions to the CPSES Physical Security Plan, the CPSES Safeguards Contingency Plan, and the CPSES Security Training and Qualification Plan, to protect against the Design Basis Threat described in Attachment 2 to this Order, have been fully implemented.