



Luminant

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Ref. # 10 CFR 52

May 20, 2011

U. S. Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555
ATTN: David B. Matthews, Director
Division of New Reactor Licensing

SUBJECT: COMANCHE PEAK NUCLEAR POWER PLANT, UNITS 3 AND 4
DOCKET NUMBERS 52-034 AND 52-035
RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION NO. 5549
(SECTION 1)

Dear Sir:

Luminant Generation Company LLC (Luminant) submits herein the response to Request for Additional Information (RAI) No. 5549 for the Combined License Application for Comanche Peak Nuclear Power Plant Units 3 and 4. This RAI addresses the applicant's actual notice of and rights to proprietary and safeguards information.

Should you have any questions regarding this response, please contact Don Woodlan (254-897-6887, Donald.Woodlan@luminant.com) or me.

There are no commitments in this letter.

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

Executed on May 20, 2011.

Sincerely,

Luminant Generation Company LLC

Rafael Flores

Attachment: Response to Request for Additional Information No. 5549 (CP RAI #206)

DO90
N120

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RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION

**Comanche Peak, Units 3 and 4
Luminant Generation Company LLC
Docket Nos. 52-034 and 52-035**

RAI NO.: 5549 (CP RAI #206)

SRP SECTION: 01 - Introduction and Interfaces

QUESTIONS for USAPWR Projects Branch (NMIP)

DATE OF RAI ISSUE: 2/25/2011

QUESTION NO.: 01-5

Part 52, Section IV.A of a certified design rule typically states, "An applicant for a combined license that wishes to reference this appendix shall, in addition to complying with the requirements of 10 CFR 52.77, 52.79, and 52.80, comply with the following requirements," and three requirements are listed. Part 52, Section IV.A.3 requires that the plant-specific DCD shall include, the proprietary information and safeguards information referenced in the certified DCD. The purpose of this last requirement is to ensure that a combined license applicant has actual notice of and rights to proprietary and safeguards information, since this information is not contained in the public version of the DCD.

In order to ensure that Luminant has contractual rights to this information in the US-APWR DCD, Luminant is requested to revise the Comanche Peak Nuclear Power Plant, COLA, Part 2, FSAR, Chapter 1, Section 1.1, to include the following paragraph:

"Unless otherwise specified, reference to the DCD refers to Tier 2 information and includes the references to the sensitive unclassified non-safeguards information (including proprietary information), and safeguards information referenced in the US-APWR DCD. Such DCD information is included in this combined license application in the same manner as it is included in the US-APWR DCD, i.e., references in the DCD are included as references in the FSAR and material incorporated by reference into the DCD is incorporated by reference into the FSAR. Appropriate agreements are in place to provide for possession (including constructive possession) and rights to use by the licensee of the withheld sensitive unclassified non-safeguards information (including proprietary information), and safeguards information referenced in the US-APWR DCD for the life of the project."

ANSWER:

The DCD in Tier 2 includes references to many documents, such as:

- Technical reports and topical reports
- Industry standards

- NRC documents
- Federal regulations
- Computer codes
- Public documents from other Regulatory agencies
- Public documents such as text books, technical periodicals or journals, letters, reports from technical meetings or conferences by standards groups or professional organizations, etc.
- Documents produced by other organizations.

Luminant agrees with the statement that for all portions of the DCD which are incorporated by reference into the FSAR, the references in those portions of the DCD are references in the FSAR and material incorporated by reference into those portions of the DCD is also incorporated by reference into the FSAR.

The basis for this question includes compliance with words such as, "Include, in the plant-specific DCD, the proprietary information and safeguards information referenced in the ... DCD." As stated in the question, the concern is confirmation that the COL licensee actually has notice of and rights to this proprietary and safeguards information. Based on the list of references above, the documents of concern which may be proprietary or safeguards include, but are not limited to:

- Technical reports and topical reports which are proprietary or safeguards
- NRC documents which are safeguards
- Computer codes which are proprietary or safeguards
- Documents produced by other organizations which are proprietary

Luminant has full notice of all references in the portions of the DCD incorporated by reference in the FSAR through the DCD itself. All referenced material is clearly identified in the DCD. The warnings, rules, or information related to each reference is either in the DCD or is obtained through access as described below.

Access to the proprietary and safeguards references identified above is obtained through one or more of several means:

- Possession – the references are retained in the libraries or files of Luminant
- Constructive possession – the material is retained in the libraries or files of another organization and Luminant has the right to access the material upon request or to obtain results based on the use of the material.
- Right to use – Luminant may not be authorized to access the material, but has the right to obtain results based on (or using) the material. An example of this form of access applies to computer codes, which the owner will not allow others to view, but will run the code to provide outputs based on identified inputs.

Through the contract to support the application for and subsequent use of a COL for CPNPP Units 3 and 4, MNES provides the possession or constructive possession to the material incorporated by reference from the DCD into the COL, including proprietary and safeguards material as discussed above.

Based on the discussion above, the FSAR has been revised to include the requested information.

Impact on R-COLA

See attached marked-up FSAR Revision 1 page 1.1-1.

Impact on S-COLA

None; this response is site-specific.

Impact on DCD

None.

Comanche Peak Nuclear Power Plant, Units 3 & 4
COL Application
Part 2, FSAR

1.0 INTRODUCTION AND GENERAL DESCRIPTION OF THE PLANT

1.1 INTRODUCTION

This section of the referenced Design Control Document (DCD) is incorporated by reference with the following departures and/or supplements.

CP SUP 1.1(1) Add the following paragraphs at the end of DCD Section 1.1.

This Final Safety Analysis Report (FSAR) describes the design, construction, and operation of a two-unit nuclear power plant designated as the Comanche Peak Nuclear Power Plant (CPNPP) Units 3 and 4. The design information provided demonstrates that CPNPP Units 3 and 4 can be constructed and operated without undue risk to the health and safety of the public.

The Combined License (COL) Applicant for CPNPP Units 3 and 4 is Luminant Generation Company LLC (Luminant), a subsidiary of Energy Future Holdings Corp.(EFH). Luminant has corporate responsibility for the design, engineering, construction, licensing, operation, procurement, quality assurance (QA), and fuel management for CPNPP Units 3 and 4.

Portions of the information required for this FSAR are incorporated by reference from the US-APWR DCD revision 2 as identified in Section 1.6. Those portions are identified by solid horizontal lines in this FSAR. Unless otherwise specified, reference to the DCD refers to Tier 2 information and includes the references to the sensitive unclassified non-safeguards information (including proprietary information) and safeguards information, identified in the portions of the US-APWR DCD which are incorporated by reference in the CPNPP FSAR. Such DCD information is included in this combined license application in the same manner as it is included in the US-APWR DCD, i.e., references in the DCD are included as references in the FSAR and material incorporated by reference into the DCD is incorporated by reference into the FSAR. Appropriate agreements are in place to provide for possession (including constructive possession) and rights to use by the licensee of the withheld sensitive unclassified non-safeguards information (including proprietary information) and safeguards information referenced in the US-APWR DCD for the life of the project.

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In cases where a section is incorporated without the need for further information, the following standard language is used: "This section of the referenced DCD is incorporated by reference with no departures or supplements."

1. In cases where a section is incorporated by reference with additional information provided in the FSAR, the following standard language is used: "This section of the referenced DCD is incorporated by reference with the following departures and/or supplements."