



Luminant

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July 28, 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
REQUEST TO TRACK FOREIGN OWNERSHIP, CONTROL OR DOMINATION
AS AN OPEN ITEM

Dear Sir:

The NRC staff is currently reviewing the application by Luminant Generation Company LLC (Luminant), acting for itself and as agent for Comanche Peak Nuclear Power Company LLC (CPNPC), for Combined Licenses (COLs) for two Mitsubishi US-APWR reactors to be constructed at the existing Comanche Peak Nuclear Power Plant site. The NRC staff is conducting Phase 2 of the safety review of this application in which Foreign Ownership, Control, or Domination (FOCD) is an unresolved item.

In response to an NRC staff request for additional information, Luminant created and submitted a Negation Action Plan (NAP) designed to address FOCD in accordance with 10 CFR 50.38 (ML103540244). The NRC staff has indicated that despite the NAP, they do not have sufficient information to write a safety evaluation regarding FOCD that supports the issuance of the requested COLs.

With respect to FOCD, Luminant and the NRC staff have agreed upon an approach to satisfactorily address the issue, but at a later point in the review process, need to agree upon the specific measures that should be taken for the CPNPP application. Therefore, Luminant hereby requests that FOCD be identified as an Open Item in Phase 2 of the safety review for the CPNPP COL applications. There are several factors that serve as a basis for this request.

- FOCD is a focused issue with limited impact. The issue can be readily addressed by modifying a few well-defined documents and does not cause additional impact in other portions of the safety review. The applicant's and NRC's resources are better focused on technical issues that are still open and may have broad impacts.
- Once the specific actions to address FOCD are agreed upon, the changes needed to incorporate those actions can be accomplished relatively quickly, probably in less than 60 days.

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- The actions needed to address FOCD are related to multiple factors including the degree to which CPNPC includes foreign membership. Currently the foreign membership is only 12% and, although there are no current plans for additional foreign membership, that could change. If the foreign membership or any of the other factors related to the action plan did change, FOCD would potentially have to be revisited and reassessed, depending upon the NRC's review of the updated COL application as provided by Luminant.
- Final resolution of this issue is not needed to support the ACRS review as the ACRS does not normally review non-technical matters. FOCD needs to be resolved for Phase 6 (Final SER Issued) or possibly even Phase 4 (Advanced SER with no Open Items Issued). By the current review schedule, these milestones are 15 to 24 months away.

Luminant recognizes that if the NRC staff agrees to make FOCD an Open Item and suspends its review in the interim, the burden is on Luminant to reinitiate the review activity. Luminant will plan for sufficient time to resolve the issues, including appeal within the NRC if necessary, and still meet the NRC's review schedule.

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

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

Executed on June 28, 2011.

Sincerely,

Luminant Generation Company LLC

A handwritten signature in black ink, appearing to read 'RD Flores' with a stylized flourish at the end.

Rafael Flores

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