

**NUCLEAR REGULATORY COMMISSION**

**[Docket Nos. 50-445 and 50-446; NRC-2018-0205]**

**Vistra Operations Company LLC;**

**Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of amendments to Facility Operating License Nos. NPF-87 and NPF-89, issued to Vistra Operations Company LLC (Vistra OpCo, the licensee), for operation of the Comanche Peak Nuclear Power Plant (CPNPP), Unit Nos. 1 and 2. The proposed exigent amendments would revise CPNPP Technical Specification (TS) 3.8.4, "DC [Direct Current] Sources – Operating," by adding a new REQUIRED ACTION to CONDITION B and an extended COMPLETION TIME (CT), on a one-time basis, to repair two affected battery cells on the CPNPP Unit No. 1, Train B safety-related batteries. Specifically, the amendments would change the TS CT for each of the Unit No. 1, Train B safety-related batteries (BT1ED2 and BT1ED4) during Unit 1, Cycle 20, from 2 hours to 18 hours.

**DATES:** Submit comments by October 24, 2018. Requests for a hearing or petition for leave to intervene must be filed by December 10, 2018.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2018-0205**. Address questions about Docket IDs in regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail:

[Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **Mail comments to:** May Ma, Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Margaret O’Banion, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-1233, e-mail: [Margaret.O'Banion@nrc.gov](mailto:Margaret.O'Banion@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Obtaining Information and Submitting Comments**

A. Obtaining Information

Please refer to Docket ID **NRC-2018-0205** or Docket Nos. 50-445 and 50-446 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0205.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[Begin Web-based ADAMS Search](#).” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The license amendment request

dated September 5, 2018, as supplemented by letters dated September 20 and October 3, 2018 are available in ADAMS under Accession Nos. ML18250A186, ML18267A059, and ML18277A207, respectively.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

#### B. Submitting Comments

Please include Docket ID **NRC-2018-0205** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Introduction

The NRC is considering issuance of amendments to Facility Operating License Nos. NPF-87 and NPF-89, issued to Vistra OpCo, for operation of the CPNPP Unit Nos. 1 and 2, located in Somervell County, Texas.

The proposed exigent amendments would revise CPNPP TS 3.8.4, "DC Sources – Operating," by adding a new REQUIRED ACTION to CONDITION B and an

extended CT, on a one-time basis, to repair two affected battery cells on the CPNPP Unit No. 1, Train B safety-related batteries. Specifically, the amendments would change the TS CT for each of the Unit No. 1, Train B safety-related batteries (BT1ED2 and BT1ED4) during Unit No. 1, Cycle 20, from 2 hours to 18 hours. The new REQUIRED ACTION B.2 would provide up to an 18 hour CT to replace cell 27 in battery BT1ED2 and up to an 18 hour CT to replace cell 41 in battery BT1ED4 (not at the same time). In addition, the amendments would place operational limits on Unit Nos. 1 and 2 during the extended CT as protective measures, as described in Attachment 2 of the letter dated September 20, 2018.

This notice is being reissued in its entirety due to the revised scope of the license amendment request resulting from the supplements dated September 20 and October 3, 2018.

On November 8, 2017, the licensee experienced cell jar cracking on cell 41 in battery BT1ED4. On July 2, 2018, the licensee experienced cell jar cracking on cell 27 in battery BT1ED2. Both affected battery cells have been jumpered out to restore operability of Unit No. 1, Train B batteries BT1ED4 and BT1ED2. The licensee stated that by replacing the affected battery cells, the licensee would regain margin on its safety-related batteries.

In accordance with the requirements of paragraph 50.91(a)(6) of title 10 of the *Code of Federal Regulations* (10 CFR), the licensee requested approval of the amendments under exigent circumstances. The licensee stated that exigent approval was needed to avoid a potential shutdown in the event of an unanticipated second battery cell failure on either of the CPNPP Unit No. 1, Train B batteries. In addition, the licensee stated that it had made a good faith effort to submit the license amendment request in a timely manner following the failure of one of the affected battery cells in

July 2018. The NRC staff determined that if a second battery cell were to fail on either of the CPNPP Unit No. 1, Train B batteries, the licensee would be unable to restore the affected battery(ies) to OPERABLE status within 2 hours and would be required to shutdown. In addition, the NRC staff determined that if the licensee requested license amendments under emergency circumstances per 10 CFR 50.91(a)(5) to extend the CT during the 2-hour CT, the staff would not have enough time to process the emergency amendments within the 2-hour CT and the licensee would be required to shutdown. As a result, the NRC staff finds that exigent circumstances exist.

Before any issuance of the proposed license amendments, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

Pursuant to 10 CFR 50.91(a)(6), for amendments to be granted under exigent circumstances, the NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments 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. As required by 10 CFR 50.91(a), the licensee has provided a revised analysis of the issue of no significant hazards consideration in letter dated October 3, 2018, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes add provisions to increase the COMPLETION TIME (CT) from two hours to eighteen hours, on a one-time basis for Comanche Peak Nuclear Power Plant Class 1E

Batteries BT1ED2 and BT1ED4. This one-time increase will only be used once per battery during Unit 1 Cycle 20 (not at the same time). An additional REQUIRED ACTION, new Note, and associated COMPLETION TIME is specified when batteries BT1ED2 and BT1ED4, associated with the plant Class 1 E Direct Current (DC) electrical power subsystem, are declared inoperable to replace a jumpered cell. Regulatory Commitment 5644411 includes conditions (preventive measures) for Unit 1 and Unit 2 to reduce site risk for the planned replacement of cell 27 in battery BT1ED2 and cell 41 in battery BT1ED4. The proposed changes do not physically alter any plant structures, systems, or components, and are not accident initiators: therefore, there is no effect on the probability of accidents previously evaluated. As part of the single failure design feature, loss of any one DC electrical power subsystem does not prevent the minimum safety function from being performed. Also, the proposed changes do not affect the type or amounts of radionuclides release following an accident, or affect the initiation and duration of their release. Therefore, the consequences of accidents previously evaluated, which rely on the safety related Class 1E battery to mitigate, are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a change in design, configuration, or method of operation of the plant. The proposed changes will not alter the manner in which equipment is operated, nor will the functional demands on credited equipment be changed. The proposed changes do not impact the interaction of any systems whose failure or malfunction can initiate an accident. There are no identified redundant components affected by these changes and thus there are no new common cause failures or any existing common cause failures that are affected by extending the CT. The proposed changes do not create any new failure modes.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are based upon a deterministic evaluation. This evaluation is supplemented by risk information.

The deterministic evaluation concluded with one inoperable battery associated with the Class 1E DC electrical power subsystem, the redundant OPERABLE Class 1E DC electrical power subsystems will be able to perform the safety function as described in the accident analysis.

Supplemental risk information supporting this license amendment request concluded that the additional REQUIRED ACTION, new Note, associated COMPLETION TIME have a negligible impact on overall plant risk and is consistent with the NRC Safety Goal Policy statement and the thresholds in Regulatory Guide (RG) 1.174, "An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis," and RG 1.177, "An Approach for Plant-Specific, Risk-Informed Decisionmaking: Technical Specifications."

The deterministic evaluation, supplemental risk information, and Regulatory Commitment 5644411 (conditions for Unit 1 and Unit 2) provide assurance that the plant Class 1E DC electrical power subsystem will be able to perform its design function with a longer COMPLETION TIME for inoperable batteries BT1ED2 and BT1ED4 during Unit 1 Cycle 20, and risk is not significantly impacted by the change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves a no significant hazards consideration. In accordance with 10 CFR 50.91(a)(6), where the Commission finds that exigent circumstances exist, in that a licensee and the Commission must act quickly and that time does not permit the Commission to publish a *Federal Register* notice allowing 30 days for prior public comment, and it also determines that the amendment involves no significant hazards considerations, it will issue a *Federal Register* notice providing notice of an opportunity for hearing and allowing at least two weeks from the date of the notice for prior public comment. Therefore, in accordance

with 10 CFR 50.91(a)(6)(i)(A), the NRC staff is providing a 14-day notice period for public comment.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, if circumstances change during the notice period, such that failure to act in a timely way would result, for example, in shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-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. If the Commission takes this action, it will publish in the *Federal Register* a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

### **III. Opportunity to Request a Hearing and Petition for Leave to Intervene**

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a



petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) the name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for 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 the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) 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. Parties have the opportunity to

participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than

60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the “Electronic Submissions (E-Filing)” section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

#### **IV. Electronic Submissions (E-Filing)**

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC’s E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the

internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a

transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on

all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this action, see the application for license amendment dated September 5, 2018, as supplemented by letters dated September 20, and October 3, 2018.

*Attorney for licensee:* Timothy P. Matthews, Esq., Morgan, Lewis and Bockius, 1111 Pennsylvania Avenue, NW, Washington, DC 20004.

*NRC Branch Chief:* Robert J. Pascarelli.

Dated at Rockville, Maryland, this 4<sup>th</sup> day of October, 2018.

For the Nuclear Regulatory Commission.

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Margaret W. O'Banion, Project Manager,  
Plant Licensing Branch IV,  
Division of Operating Reactor Licensing,  
Office of Nuclear Reactor Regulation.