

APPENDIX B

TO FACILITY OPERATING LICENSE NO. NPF-28

TEXAS UTILITIES GENERATING COMPANY
COMANCHE PEAK STEAM ELECTRIC STATION UNITS 1 & 2
DOCKET NOS. 50-445 AND 50-446

FEBRUARY 8, 1990

ENVIRONMENTAL PROTECTION PLAN
(NONRADIOLOGICAL)

9002280137 900208
PDR ADOCK 05000445
P EDC

COMANCHE PEAK STEAM ELECTRIC STATION
UNITS 1 AND 2

ENVIRONMENTAL PROTECTION PLAN
(NONRADIOLOGICAL)

TABLE OF CONTENTS

| Section | Page |
|--------------------------------------------------------------------------------------|------|
| 1.0 Objectives of the Environmental Protection Plan. | 1-1 |
| 2.0 Environmental Protection Issues. | 2-1 |
| 2.1 Aquatic Issues | 2-1 |
| 2.2 Terrestrial Issues | 2-1 |
| 3.0 Consistency Requirements | 3-1 |
| 3.1 Plant Design and Operation | 3-1 |
| 3.2 Reporting Related to the NPDES Permit and State Certification. | 3-2 |
| 3.3 Changes Required for Compliance with Other Environmental Regulations. | 3-3 |
| 4.0 Environmental Conditions | 4-1 |
| 4.1 Unusual or Important Environmental Events. | 4-1 |
| 4.2 Environmental Monitoring | 4-1 |
| 5.0 Administrative Procedures. | 5-1 |
| 5.1 Review and Audit | 5-1 |
| 5.2 Records Retention. | 5-1 |
| 5.3 Changes in Environmental Protection Plan | 5-1 |
| 5.4 Plant Reporting Requirements | 5-2 |

1.0 Objectives of the Environmental Protection Plan

The purpose of the Environmental Protection Plan (EPP) is to provide for protection of nonradiological environmental values during operation of the nuclear facility. The principal objectives of the EPP are as follows:

- (1) Verify that the facility is operated in an environmentally acceptable manner, as established by the Final Environmental Statement - Operating License Stage (FES-OL) and other NRC environmental impact assessments.
- (2) Coordinate NRC requirements and maintain consistency with other Federal, State, and local requirements for environmental protection.
- (3) Keep NRC informed of the environmental effects of facility construction and operation and of actions taken to control those effects.

Environmental concerns identified in the FES-OL which relate to water quality matters are regulated by way of the licensee's NPDES permit.

2.0 Environmental Protection Issues

In the FES-OL, dated September 1981, the staff considered the environmental impacts associated with the operation of the two-unit Comanche Peak Steam Electric Station (CPSES). Certain environmental issues were identified which required study or license conditions to resolve environmental concerns and to assure adequate protection of the environment.

2.1 Aquatic Issues

The aquatic issues identified by the State in the FES-OL were as follows:

- (1) Effects of the intake structure on aquatic biota during operation (FES-OL Section 5.5.2.3).
- (2) Effects of the circulating water chlorination system on aquatic biota during operation (FES-OL Sections 4.2.4.1, 5.3.4.1, and 5.11.3.1).

The second issue above, "Effects of the circulating water chlorination system on aquatic biota during operation (FES-OL Sections 4.2.4.1, 5.3.4.1, and 5.11.3.1)," no longer applies because the service water and circulating water chlorination system is no longer used at CPSES and the EPA NPDES permit no longer requires that such a study be performed.

Aquatic matters are addressed by the effluent limitations, monitoring requirements, and the Section 316(b) demonstration requirement contained in the effective NPDES permit issued by the U. S. Environmental Protection Agency (Region VI). The NRC will rely on this agency for regulation of matters involving water quality and aquatic biota.

2.2 Terrestrial Issues

The terrestrial issue identified by the staff in the FES-OL was as follows:

- (1) Potential impacts resulting from the use of groundwater by the station during operation (FES-OL Section 5.3.1.2).

NRC requirements with regard to the terrestrial issue are specified in Subsection 4.2 of this EPP.

3.0 Consistency Requirements

3.1 Plant Design and Operation

The licensee may make changes in station design or operation or perform tests or experiments affecting the environment provided such activities do not involve an unreviewed environmental question and do not involve a change in the EPP*. Changes in station design or operation or performance of tests or experiments which do not affect the environment are not subject to the requirements of this EPP. Activities governed by Subsection 3.3 are not subject to the requirements of this Section.

Before engaging in additional construction or operational activities which may significantly affect the environment, the licensee shall prepare and record an environmental evaluation of such activity. Activities are excluded from this requirement if all measurable nonradiological environmental effects are confined to the onsite areas previously disturbed during site preparation and plant construction. When the evaluation indicates that such activity involves an unreviewed environmental question, the licensee shall provide a written evaluation of such activity and obtain prior NRC approval. When such activity involves a change in the EPP, such activity and change to the EPP may be implemented only in accordance with an appropriate license amendment as set forth in Subsection 5.3 of this EPP.

* This provision does not relieve the licensee of the requirements of 10 CFR 50.59.

A proposed change, test, or experiment shall be deemed to involve an unreviewed environmental question if it concerns: (1) a matter which may result in a significant increase in any adverse environmental impact previously evaluated in the FES-OL, in environmental impact appraisals, or in any decisions of the Atomic Safety and Licensing Board; or (2) a significant change in effluents or power level [in accordance with 10 CFR Part 51.5(b)(2)]; or (3) a matter, not previously reviewed and evaluated in the documents specified in (1) of this Subsection, which may have a significant adverse environmental impact.

The licensee shall maintain records of changes in facility design or operation and of tests and experiments carried out pursuant to this Subsection. These records shall include written evaluations which provide bases for the determination that the change, test, or experiment does not involve an unreviewed environmental question or constitute a decrease in the effectiveness of this EPP to meet the objectives specified in Section 1.0. The licensee shall include as part of the Annual Environmental Operating Report (per Subsection 5.4.1) brief descriptions, analyses, interpretations, and evaluations of such changes, tests, and experiments.

3.2 Reporting Related to the NPDES Permit and State Certification

Changes to, or renewals of, the NPDES permit or the State certification shall be reported to the NRC within 30 days following the date the change or renewal is approved. If a permit or certification, in part or in its entirety, is appealed and stayed, the NRC shall be notified within 30 days following the date the stay is granted.

The licensee shall notify the NRC of changes to the effective NPDES permit that are proposed by the licensee by providing NRC with a copy of the proposed change at the same time it is submitted to the permitting agency. The licensee shall provide the NRC with a copy of the application for renewal of the NPDES permit at the same time the application is submitted to the permitting agency.

3.3 Changes Required for Compliance with Other Environmental Regulations

Changes in plant design or operation and performance of tests or experiments which are required to achieve compliance with other Federal, State, and local environmental regulations are not subject to the requirements of Subsection 3.1.

4.0 Environmental Conditions

4.1 Unusual or Important Environmental Events

Any occurrence of an unusual or important event that indicates or could result in significant environmental impact causally related to plant operation shall be recorded and reported to the NRC within 24 hours, followed by a written report per Subsection 5.4.2. The following are examples of such events: excessive bird impaction events, onsite plant or animal disease outbreaks, mortality or unusual occurrence of any species protected by the Endangered Species Act of 1973, fish kills, increase in nuisance organisms or conditions, and unanticipated or emergency discharge of waste water or chemical substances.

No routine monitoring programs are required to implement this condition.

4.2 Environmental Monitoring

4.2.1 Groundwater Levels and Station Water Use Monitoring

Groundwater levels in the onsite observation wells identified as OB-3 and OB-4 in the FES-OL (Figure 4-3) shall be monitored and recorded monthly when the groundwater pumpage rate by CPSES is less than or equal to 30 gallons per minute (gpm) and weekly when the CPSES average monthly rate exceeds 30 gpm for the previous month. Water levels shall be read and recorded on approximately the same day of the month when monitoring monthly and on the same day of the week when monitoring weekly (an aid in interpreting the results by minimizing the influence of cyclic water use patterns of the aquifer by others on the observed water levels).

A monthly record of the total number of gallons pumped from each of the onsite production wells shall be maintained, including an average monthly pumpage rate in gpm.

A monthly record showing the rate and total amount of surface water processed by the onsite water treatment facility shall be maintained by the licensee on a monthly basis. This record shall include the process rate in gallons per minute and the total amount in gallons.

The licensee shall include the results of this monitoring program as part of the Annual Operating Report (see Subsection 5.4.1).

4.2.2 Water Treatment Facility Outages Impact Assessment and Reporting

The following outages of the onsite water treatment facility shall be reported to the NRC:

- (1) Routine or unplanned outages that exceed 30 consecutive days.
- (2) Any outage of at least 24 hours duration, beginning with the third such outage in a calendar year, if these outages are accompanied by an increase in the monthly average groundwater pumpage to a rate exceeding 30 gpm. When it is determined that either routine or unplanned outages will exceed 30 consecutive days and when the groundwater pumpage rate will be greater than 30 gpm when averaged over the outage period, the licensee will prepare and submit a report to the NRC within 15 days

after a determination of the extended outage is made. This report shall include (1) a discussion of the reason for the extended outage, (2) the expected duration of the outage, (3) an estimate of the date or the time required to return the onsite water treatment facility to operation, (4) a determination of the potential for lowering the groundwater levels in offsite wells, (5) an assessment of the impact of the projected groundwater level decline, and (6) a proposed course of action to mitigate any adverse effects.

5.0 Administrative Procedures

5.1 Review and Audit

The licensee shall provide for review and audit of compliance with the EPP. The audits shall be conducted independently of the individual or groups responsible for performing the specific activity. A description of the organization structure utilized to achieve the independent review and audit function and the results of audit activities shall be maintained and made available for inspection.

5.2 Records Retention

Records and logs relative to the environmental aspects of station operation shall be made and retained in a manner convenient for review and inspection. These records and logs shall be made available to NRC on request.

Records of modifications to station structures, systems, and components determined to potentially affect the continued protection of the environment shall be retained for the life of the station. All other records, data and logs relating to this EPP shall be retained for 5 years or, where applicable, in accordance with the requirements of other agencies.

5.3 Changes in Environmental Protection Plan

Requests for changes in the EPP shall include an assessment of the environmental impact of the proposed change and a supporting justification. Implementation

of such changes in the EPP shall not commence prior to NRC approval of the proposed changes in the form of a license amendment incorporating the appropriate revision to the EPP.

5.4 Plant Reporting Requirements

5.4.1 Routine Reports

An Annual Environmental Operating Report describing implementation of this EPP for the previous year shall be submitted to the NRC prior to May 1 of each year. The initial report shall be submitted prior to May 1 of the year following issuance of the operating license. The period of the first report shall begin with the date of issuance of the operating license.

The report shall include summaries and analyses of the results of the environmental protection activities required by Subsection 4.2 of this EPP for the report period, including a comparison with related preoperational studies, operational controls (as appropriate), and previous nonradiological environmental monitoring reports, and an assessment of the observed impacts of plant operation on the environment. If harmful effects or evidence of trends toward irreversible damage to the environment are observed, the licensee shall provide a detailed analysis of the data and a proposed course of mitigating action.

The Annual Environmental Operating Report shall also include:

- (1) A list of EPP noncompliances and the corrective actions taken to remedy them.
- (2) A list of all changes in station design or operation, tests, and experiments made in accordance with Subsection 3.1 which involved a potentially significant unreviewed environmental question.
- (3) A list of nonroutine reports submitted in accordance with Subsection 5.4.2.
- (4) A summary list of NPDES permit-related reports relative to matters identified in Subsection 2.1 which were sent to the U. S. Environmental Protection Agency Region VI during the report period.

In the event that some results are not available by the report due date, the report shall be submitted noting and explaining the missing results. The missing results shall be submitted as soon as possible in a supplementary report.

5.4.2 Nonroutine Reports

A written report shall be submitted to the NRC within 30 days of occurrence of a nonroutine event. The report shall (a) describe, analyze, and evaluate the event, including extent and magnitude of the impact and plant operating

characteristics; (b) describe the probable cause of the event; (c) indicate the action taken to correct the reported event; (d) indicate the corrective action taken to preclude repetition of the event and to prevent similar occurrences involving similar components or systems; and (e) indicate the agencies notified and their preliminary responses.

Events reportable under this subsection which also require reports to other Federal, State or local agencies shall be reported in accordance with those reporting requirements in lieu of the requirements of this subsection. The NRC shall be provided with a copy of such a report at the same time it is submitted to the other agency.

APPENDIX C

TO

FACILITY OPERATING LICENSE NO. NPF-28
COMANCHE PEAK STEAM ELECTRIC STATION

UNIT 1

TEXAS UTILITIES ELECTRIC COMPANY, et al.

DOCKET NO. 50-445

ANTITRUST CONDITIONS*

LICENSE CONDITIONS FOR COMANCHE PEAK STEAM ELECTRIC STATION, UNIT NO. 1

* These are the Conformed Settlement License Conditions filed in December 1980 which were approved May 6, 1982 by the administrative law judge presiding over the consolidated antitrust proceedings for Comanche Peak Steam Electric Station. Although the text is identical, the sections have been renumbered for convenience.

A. The following definitions apply to paragraph B:

1. "Applicants" means severally and jointly Texas Utilities Generating Company, Dallas Power & Light Company, Texas Electric Service Company, Texas Power & Light Company, Texas Utilities Company, and each other subsidiary, affiliate, or successor company now or hereafter engaged in the generation, transmission, and/or the distribution of electric power in the State of Texas.
2. "North Texas Area" means the following Texas counties: Anderson, Andrews, Angelina, Archer, Bastrop, Baylor, Bell, Borden, Bosque, Brown, Burnet, Cherokee, Clay, Coke, Collin, Comanche, Cooke, Coryell, Crane, Culberson, Dallas, Dawson, Delta, Denton, Eastland, Ector, Ellis, Erath, Falls, Fannin, Fisher, Freestone, Gaines, Glasscock, Grayson, Henderson, Hill, Hood, Hopkins, Houston, Howard, Hunt, Jack, Johnson, Kaufman, Kent, Lamar, Lampasas, Leon, Limestone, Loving, Lynn, Martin, McLennan, Midland, Milam, Mitchell, Montague, Nacogdoches, Navarro, Nolan, Palo Pinto, Parker, Pecos, Rains, Reagan, Red River, Reeves, Rockwall, Rusk, Scurry, Schackelford, Smith, Somervell, Stephens, Sterling, Tarrant, Terry, Tom Green, Travis, Upton, Van Zandt, Ward, Wichita, Wilbarger, Williamson, Winkler, Wise, Wood, and Young.
3. "Entity" means an electric utility which is a person, a private or public corporation, a governmental agency or authority, a municipality, a cooperative, or an association owning, operating or contractually controlling, or proposing in good faith to own, operate, or contractually control, facilities for generation of electric power and energy; provided, however, that as used in paragraphs B.1, B.2, B.7, B.9, B.10(a) and B.10(b), B.11, B.12, and B.13, "Entity" means an electric utility which is a person, a private or public corporation, a governmental agency or authority, a municipality, a cooperative, or an association owning or operating, or proposing in good faith to own or operate facilities for generation, transmission, and/or distribution of electric power and energy.
4. "Entity in the North Texas Area" means an Entity which owns or operates facilities for the generation, transmission, and/or distribution of electric power in any area within the North Texas Area.
5. "Bulk Power" means the electric power and/or electric energy supplied or made available at transmission or subtransmission voltages.
6. "Costs" means all appropriate operating and maintenance expenses and all ownership costs, where applicable.
7. The terms "connection" and "interconnection" are used interchangeably.

B. The "Applicants" defined in Paragraph A.1 are subject to the following antitrust conditions:

1. The Applicants shall afford an opportunity to participate in the Comanche Peak Steam Electric Station, Units 1 and 2, for the term of the instant license, or any extension or renewal thereof, to any Entity(ies) in the North Texas Area making a timely request therefor, through a reasonable ownership interest in such unit(s) on reasonable terms and conditions and on a basis that will fully compensate Applicants for their costs. It is understood that any request received prior to December 1, 1973, shall be deemed to be timely. In connection with such participation, the Applicant also will interconnect with and offer transmission service as may be required for delivery of such power to such Entity(ies) at a point or points on the Applicants' system on a basis that will fully compensate the Applicants for their costs, including a reasonable return on investment. Notwithstanding the December 1, 1973, date appearing hereinabove, the Applicants' offer of participation in Comanche Peak Steam Electric Station, Units 1 and 2, to Tex-La Electric Cooperative of Texas, Inc. shall not obligate the Applicants, by virtue of such offer, to offer an opportunity to participate in Comanche Peak Steam Electric Station, Units 1 and 2, to any other Entity.

2. The Applicants, as long as they are members of the Texas Interconnected Systems (TIS), shall support reasonable requests by Entities in the North Texas Area having generating capacity for membership in TIS. The Applicants shall also propose and actively support, as long as they are members thereof, the creation of one or more additional classifications of TIS membership based on non-discriminatory criteria to afford access to data, studies, and recommendations to all Entities in the North Texas Area for membership in any other electric utility planning or operating organization of which the Applicants are members (other than one involving only the Applicants). The Applicants shall share information with other Entities with respect to, and shall, with other such entities through any electric utility planning organizations (other than one involving only the Applicants) of which the Applicants are members, conduct and/or participate in joint studies and planning of future generation, transmission, and related facilities; provided, however, this condition shall not obligate the Applicants to conduct or participate in such joint studies or joint planning unless (1) the studies or planning are requested and conducted in good faith and are based on reasonably realistic and reasonably complete data or projections, (2) the studies or planning are reasonably justified on the basis of sound engineering principles, (3) appropriate protection is accorded proprietary or other confidential business and financial information, and (4) the costs for such studies or planning are allocated on a fair and equitable basis.

3. The Applicants will connect with, coordinate reserves, and sell, purchase or exchange emergency and/or scheduled maintenance bulk power with any Entity in the North Texas Area on terms that provide for the Applicants' costs, including a reasonable return on investment, in connection therewith and allow such Entity(ies) full access to the benefits of such reserve coordination.
4. Emergency service and/or scheduled maintenance service to be provided by each party shall be furnished to the fullest extent available from the supplying party and desired by the party in need. If requested, Applicants shall exchange maintenance schedules with any Entity in the North Texas Area. The Applicants and each such Entity(ies) shall provide to the other emergency service and/or scheduled maintenance service if and when available to the extent they can do so, without unreasonably impairing service to their customers including other electric systems to whom they have firm commitments. Any curtailment or refusal to provide such emergency and/or scheduled maintenance service shall be on a non-discriminatory basis.
5. The Applicants and the other party(ies) to a reserve sharing arrangement shall from time to time jointly establish the minimum reserves to be installed and/or provided under contractual arrangements as necessary to maintain in total a reserve margin sufficient to provide adequate reliability of power supply to the interconnected systems of the parties in accordance with good industry practice as developed in the area. Unless otherwise agreed upon, minimum reserve requirements shall be calculated as a percentage of each party's estimated net peak load demand (taking into account firm sales and firm purchases). No party to the arrangement shall be required to maintain greater reserves than the percentage which results from the aforesaid calculation. The reliability of power delivered into TIS-ERCOT over DC asynchronous connections shall not be treated differently by the Applicants, for purposes of spinning and installed reserve calculations and requirements, than would be the case if such power originated within TIS-ERCOT. Outages on DC asynchronous connections shall be treated by the Applicants the same as losses of generation within TIS-ERCOT. The Applicants agree to support the adoption of principles involving DC asynchronous connections contained in this paragraph within any TIS or ERCOT organization.
6. The parties to such a reserve sharing arrangement shall provide such amounts of spinning reserves as may be equitable and adequate to avoid the imposition of unreasonable demands on the other party(ies) in meeting the normal contingencies of operating its (their) system(s). However, in no circumstances shall such reserve requirement exceed the installed reserve requirement.
7. Interconnections with any Entity will not be limited to low voltages when higher voltages are requested and are available from the Applicants' installed facilities in the area where a connection is desired, when the proposed arrangement is found to be technically and economically feasible. Control and telemetering facilities shall be provided as required for safe and prudent operation of the interconnected systems.

8. Interconnection and coordination agreements shall not embody any restrictive provisions pertaining to intersystem coordination. Good industry practice, as developed in the area from time to time (if not unreasonably restrictive), will satisfy this provision.
9. The Applicants shall participate in and facilitate the exchange of bulk power by transmission over the Applicants' transmission facilities between or among two or more Entities in the North Texas Area with which the Applicants are connected, and between any such Entity(ies) and any Entity(ies) outside the North Texas Area between whose facilities the Applicants' transmission lines and other transmission lines, including any direct current (asynchronous) transmission lines, form a continuous electrical path; provided that (i) permission to utilize such other transmission lines has been requested by the proponent of the arrangement, (ii) the arrangements reasonably can be accommodated from a functional and technical standpoint, and (iii) any Entity(ies) requesting such transmission arrangements shall have given Applicants reasonable advance notice of its (their) schedule and requirements. Such transmission shall be on terms that fully compensate the Applicants for their costs including a reasonable return on investment; provided, however, that such transmission services and the rates to be charged therefor shall be subject to any regulatory agency(ies) having jurisdiction thereof. The Applicants shall not refuse to provide such transmission service merely because the rates to be charged therefor are the subject of dispute with such Entity. The Applicants shall not be required to enter into any arrangement which would unreasonably impair system reliability or emergency transmission capacity, it being recognized that while some transmission may be operated fully loaded, other transmission may be for emergency use and operated either unloaded or partially loaded. (The foregoing applies to any Entity(ies) to which the Applicants may be connected in the future as well as those to which they are now connected.)
- 10(a) The Applicants shall include in their planning and construction programs sufficient transmission capacity as required for the transactions referred to in paragraphs B.9 and B.11, provided any Entity(ies) in the North Texas Area gives the Applicants sufficient advance notice as may be necessary to accommodate its (their) requirements from a functional and technical standpoint and that such Entity(ies) fully compensates the Applicants for their costs including a reasonable return on investment. The Applicants shall not be required to construct transmission facilities if construction of such facilities is infeasible, or if such would unreasonably impair system reliability or emergency transmission capacity. In connection with the performance of their obligations above, the Applicants shall not be foreclosed from requiring a reasonable contribution in aid of construction or from making arrangements for coordinated construction of future transmission lines such that each of the parties to the transaction would own an interest in or a segment of the transmission addition in proportion to

its share of the cost of the addition. Any such contribution made in aid of construction or ownership interest shall be properly credited in determining any wheeling charges. If the Applicants engage in joint ownership of transmission lines with any other Entity, they shall not refuse to engage in similar transactions in comparable circumstances with other Entities, subject to the provisions limiting the Applicants' obligations above.

- 10(b) Applicants shall provide other Entities with reasonable access to any future interstate interconnection facilities which Applicants may own, on terms and conditions comparable to the provisions of paragraph B.9 hereof and subparagraph 10(a).
11. The Applicants shall, upon reasonable advance notice, sell full and partial requirements bulk power to requesting Entities in the North Texas Area having, on the date of this license, non-aggregated generating capacity of less than 200 MW (including no generating capacity) under reasonable terms and conditions which shall provide for recovery of Applicants' costs, including a reasonable return on investment. The Applicants shall not be required to make any such sale if they do not have available sufficient bulk power or adequate transmission to provide the requested service or if the sale would impair their ability to render adequate and reliable service to their own customers or their ability to discharge prior commitments.
- 12(a) In connection with the performance of their obligations herein and subject to the provisions of this paragraph, the Applicants will not disconnect from or refuse to connect their then-existing or proposed facilities with the facilities of any Entity, used or proposed to be used for the transmission of electric energy in interstate commerce by reason of the interstate character of such facilities, and the Applicants will not prevent any Entity with which they maintain connection from establishing, maintaining, modifying, or utilizing a connection with facilities used or proposed to be used for the transmission of electric energy in interstate commerce by reason of the interstate character of such facilities, provided that, anything in these license conditions to the contrary notwithstanding (but subject to paragraph 12(b) and 12(d) below), any Entity seeking to establish, maintain, modify or utilize any connection which could affect the nonjurisdictional status of the Applicants under the Federal Power Act shall have filed an application with and used its best efforts to obtain an order from the Federal Energy Regulatory Commission, applicable to the Applicants under Sections 210, 211, and 212 of such Act, requiring the establishment, maintenance, modification or utilization of such connection. In the event that an Entity files an Application pursuant to this subparagraph, the Applicants agree that they will not unreasonably oppose any such application. In the event such application is denied by a valid order of the Federal Energy Regulatory Commission, any continuing refusal by the Applicants to establish, maintain, modify or utilize such

connection with such Entity shall be subject to review by the NRC in accordance with the Atomic Energy Act of 1954, as amended, and the rules and regulations thereunder, to determine whether any such refusal would create or maintain a situation inconsistent with the antitrust laws or the policies thereunder in accordance with the standards set forth in Section 105 of such Act; provided that all factual determinations by the FERC on any cost or system reliability reason(s) for any such refusal shall not be subject to redetermination by the NRC. The burden of proof will be on the Applicants in such NRC proceeding.

- 12(b) Applicants shall not enter into or maintain any agreement or understanding with any other Entity(ies) to refuse to deal with another Entity(ies) with the purpose of maintaining a non-jurisdictional status under the Federal Power Act, and in the event that Applicants refuse to make an interconnection with, or choose to disconnect from any Entity(ies), such decision and/or action by the Applicants will be undertaken unilaterally, not jointly, and without consultation with any other Entity(ies), provided, however, that after Applicants decide to undertake such action, they may notify any affected Entity.
- 12(c) In the event that an Entity files an application pursuant to subparagraph 12(a) solely by reason of the Applicants' desire to maintain their non-jurisdictional status under the Federal Power Act, Applicants agree to pay such Entity's reasonable expenses, ^{1/} in connection with such application and the ensuing proceeding, provided, however, that Applicants shall not be required to pay for any expenses of such Entity if that Entity's application is denied by FERC for reasons advocated by Applicants at FERC, and provided further, that Applicants shall not be required to pay for any expenses of such Entity which that Entity would have incurred had it not filed an application solely by reason of Applicants' desire to maintain their non-jurisdictional status under the Federal Power Act.
- 12(d) Nothing in these License Conditions shall impair the right of the Department of Justice or any other Entity, public or private, to file an antitrust action in any Federal Court in the event any Applicant refuses to establish, maintain, modify or utilize any connection with any Entity(ies), provided, that nothing herein shall preclude any Applicant from raising any legal or equitable defense that may be available to it.

1/ This obligation shall not apply to the expenses of the Central & South West Corporation or Houston Industries or any of their respective subsidiaries, including, but not limited to, the expenses of Central & South West Corporation and any of its subsidiaries incurred in FERC Docket EL79-8.

13. Applicants agree to use their best efforts to amend any agreements with all Entities to ensure that such agreements are not inconsistent with paragraphs B.12(a) and B.12(b).
14. The Applicants will, in accordance with applicable law, allow ownership participation in future nuclear generating facilities which they may construct, own, and operate in the State of Texas on conditions similar to these License Conditions.
15. Applicants shall use their best efforts to modify the Offer of Settlement filed in FERC Docket EL79-8 to include each of the undertakings set forth in the letter agreement among Applicants, Central & South West Corporation, Houston Lighting & Power Company and the FERC Staff dated September 11, 1980; Applicants shall thereafter use their best efforts to secure approval thereof by the FERC, and shall abide by any valid order(s) of the FERC issued pursuant to the Offer of Settlement. Nothing herein shall preclude the Department of Justice from instituting or intervening in any proceeding at FERC, including FERC Docket No. EL79-8, and from presenting such arguments and evidence that it deems appropriate.
16. The foregoing conditions shall be implemented i) in a manner consistent with applicable Federal, state and local statutes and regulations and ii) subject to any regulatory agency having jurisdiction. Nothing herein shall preclude the Applicants from seeking an exemption or other relief to which they may be entitled under applicable law or shall be construed as a waiver of their right to contest the applicability of the license conditions with respect to any factual situation.