13804

March 26, 1993

'93 MAR 26 P4:15

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of Texas Utilities Electric Company (Comanche Peak Steam Electric Station, Unit 2)	)	Docket No. 50-446-CPA

TEXAS UTILITIES ELECTRIC COMPANY'S
RESPONSE TO THE COMMISSION'S
ORDER OF MARCH 26, 1993

By Order dated March 26, 1993, the U.S. Nuclear Regulatory Commission (Commission or NRC) requested the NRC Staff and any other interested party to address two issues. First, whether the Staff had received responses to a letter dated January 12, 1993 from Thomas Murley, Director Office of Nuclear Reactor Regulation (NRR) to Texas Utilities Electric Company (TU Electric) and the former minority owners of the Comanche Peak Steam Electric Station (CPSES) and, if so, whether the "responses provide reasonable assurance that the employees and contractors of the former co-owners have been aware that they may bring safety concerns to the NRC." Secondly, the Commission requested the Staff to address the status of a 2.206 petition filed by the National Whistleblower Center raising the first issue. TU Electric herewith files its response to the first issue.

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PDR ADOCK 05000446
Q PDR

DS03

Upon receipt of the January 12, 1993 letter, Mr. Wes Taylor, Executive Vice President of TU Electric, advised each of the former minority owners that nothing contained in the agreements between the former minority owners was intended to restrict anyone from communicating a safety concern to the NRC. In his letter to Brazos Electric Power Cooperative ("Brazos"), for example, Mr. Taylor stated as follows:

> Nevertheless in order to affirm and clarify TU Electric's intent and to resolve the NRC's Staff's concerns, TU Electric is hereby advising Brazos Electric Power Cooperative, Inc., that the subject provisions are not intended to prohibit the minority owners, their employees, or representatives from communicating safety concerns to the NRC, and accordingly TU Electric will not attempt to impose or enforce any such prohibition. These individuals or organizations may, at any time, bring safety information to the NRC, if the individual or organization so chooses.

Letter from Wes M. Taylor, Executive Vice President, TU Electric to Mr. Richard E. McCaskill, Executive Vice President and General Manager, Brazos Electric Power Cooperative, Inc. (February 3, 1993). Similar letters were also sent to Texas Municipal Power Agency ("TMPA") and Tex-La Electric Cooperative of Texas, Inc. ("Tex-La") 1/

Subsequently on February 9, 1993 TMPA responded to the NRC's January 12, 1993 letter. Tex-Law and Brazos responded by

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1/ Copies of TU Electric's letters to the former minority owners are attached.

letters dated February 10, 1993. 2/ In its response Brazos explained that it had never interpreted its agreement with TU Electric "as prohibiting the communication of safety information to the NRC and [Brazos has] taken no action to stifle any individuals or organizations in such regard." 3/

Similarly, in its letter of February 9, 1993, TMPA advised the NRC that it did not interpret its agreement with TU Electric as prohibiting anyone from bringing safety concerns to the attention to the NRC. TMPA's letter provided in pertinent part:

> TMPA has obtained the written assurance of TUEC . . . that TUEC does not interpret the agreement to prohibit TMPA, its employees or representatives from communicating safety concerns to the NRC. Likewise, TMPA does not interpret the agreement to contain any such prohibition.
>
> TMPA is unaware of any individual or organization connected with it who has interpreted the language in its February 12, 1988 agreement with TUEC to deprive the NRC of safety information with respect to the CPSES. 4/

Additionally, by letter dated February 10,1993, Tex-La informed Dr. Murley that it had advised its consultants and

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2/ Copies of the former minority owners responses to the January 12, 1993 letter are attached.

3/ Letter from Richard E. McCaskill, Executive Vice President and General Manager, Brazos Electric Power Cooperative, Inc. to Thomas E. Murley, Director NRR (February 10, 1993).

4/ Letter from Ed L. Wagoner, Executive Director and General Manager, Twin Municipal Power Agency to Thomas Murley, Director NRR (February 9, 1993).

attorneys who were aware of the terms of the settlement agreement with TU Electric, that the settlement agreement was not intended to restrict anyone from bringing safety concerns to the NRC and that the consultants and lawyers were "not precluded from communicating safety concerns relating to the CPSES to the NRC."

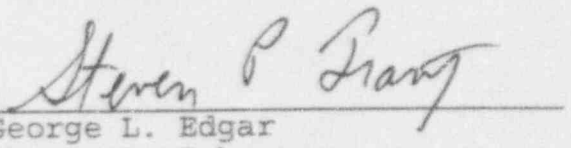
As these letters clearly show, TU Electric and each of the former CPSES minority has responded to Dr. Murley's January 12, 1993 letter. These responses show that there is reasonable assurance that employees and contractors of the former CPSES minority owners are aware that they may bring safety concerns to the attention of the NRC. 5/

Finally, the settlement agreements, which provided for the sale of the minority owners' share of CPSES, were executed in 1988-89. Subsequently, TU Electric conducted extensive design and hardware validation programs for CPSES Unit 2. 6/ These programs provide reasonable assurance of the adequacy of the design and construction of CPSES Unit 2.

5/ Letter from John H. Butts, Manager Tex-La Electric Cooperative of Texas, Inc. to Mr. Daniel J. Klectsman, Massachusetts Institute of Technology (February 10, 1993) attached to Letter from John H. Butts to Thomas E. Murley, Director, NRC (February 10, 1993).

6/ See letter TXX-92215 from William J. Cahill, Jr. (TU Electric) to NRC (Apr. 27, 1992); NRC Inspection Report 50-445/91-202; 50-446/91-201 (Mar. 31, 1992).

Respectfully submitted,



George L. Edgar
Thomas A. Schmutz
Steven P. Frantz
Paul J. Zaffuts
Newman & Holtzinger, P.C.
1615 L. St, N.W.
Washington, D.C. 20036
(202) 955-6600

Attorneys for TU Electric

Robert A. Wooldridge, Esq.
Worsham, Forsythe, Sampels & Wooldridge
2001 Bryan Tower
Suite 3200
Dallas, TX 75201
(214) 979-3000

March 26, 1993

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

'93 MAR 26 P4:16

In the Matter of	)	
TEXAS UTILITIES ELECTRIC COMPANY	)	
(Comanche Peak Steam Electric Station, Unit 2)	)	Docket No. 50-446-CPA

CERTIFICATE OF SERVICE

I hereby certify that copies of "TEXAS UTILITIES ELECTRIC COMPANY'S RESPONSE TO COMMISSION'S ORDER OF MARCH 26, 1993" were served on March 26, 1993, by hand, unless otherwise indicated below, on each of the following:

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge
Morton B. Margulies, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attention: Chief, Docketing and Service Section
(Original Plus Two Copies)

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Administrative Judge
James H. Carpenter
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Michael D. Kohn, Esq.*
Kohn, Kohn & Colapinto, P.C.
517 Florida Avenue, N.W.
Washington, D.C. 20001

Janice Moore, Esq.
Marian L. Zobler, Esq.
Michael H. Finkelstein, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

R. Micky Dow*
Sandra Long Dow
506 Mountain View Estates
Granbury, TX 76048

*Served By Fax and by
First Class Mail

Paul J. Zaffuts
1615 L Street, N.W.
Suite 1000
Washington, D.C. 20036
(202) 955-6600

Dated: March 26, 1993

TU ELECTRIC

Log # TXX-93066
File # 10076

February 3, 1993

Wes M. Taylor
Executive Vice President

Mr. Ed Wagoner, General Manager
Texas Municipal Power Agency
P. O. Box 7000
Bryan, TX 77805

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION (CPSES)
DOCKET NOS. 50-445 AND 50-446
RESPONSE TO NRC REQUEST FOR INFORMATION

Dear Mr. Wagoner:

In a recent pleading filed by the Nuclear Regulatory Commission (NRC) Staff connection with the Comanche Peak Steam Electric Station (CPSES) Construction Permit Extension matter, counsel for the NRC Staff took the position that certain provisions of the CPSES minority owner litigation settlement agreements (Sections 9.2 and 9.7 [9.6 of the TMPA Agreement]) were in conflict with Commission policy, insofar as they preclude the minority owners from bringing information of regulatory concern to the NRC. On January 12, 1993, the Director of Nuclear Reactor Regulation wrote each of the minority owners (Brazos, TMPA, and Tex-La) and TU Electric expressing concerns about the potentially restrictive provisions of these settlement agreements and asking the minority owners and TU Electric to inform him of what actions have been or will be taken in order to assure that individuals and organizations do not believe that they are precluded by these settlement agreements from coming to the NRC with safety concerns.

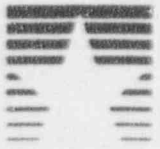
TU Electric continues to believe that these settlement agreements, including the provisions cited by the NRC Staff, are consistent with official Commission policy. More particularly, Section 9.7 of each of the settlement agreements specifically provides that each minority owner (as well as those acting on behalf of the minority owners, such as its members, agents, servants, employees, officers, directors, consultants, attorneys, and representatives) was free to comply with Section 210 (now Section 211) of the Energy Reorganization Act, which in turn reflects a policy to ensure that employees of nuclear licensees (such as the minority owners) are free to report safety concerns to the NRC. Furthermore, in said section of each agreement, each minority owner made affirmative representations and warranties that it did not know of any violation, actual or alleged, of Section 210 that had not previously been disclosed to TU Electric in writing. It was thus clearly the intention of TU Electric to insure that all safety concerns had or would be made known to the NRC. enforceable.

Nevertheless, in order to affirm and clarify TU Electric's intent and to resolve the NRC's Staff's concerns, TU Electric is hereby advising Texas Municipal Power Agency that the subject provisions are not intended to prohibit the minority owners, their employees, or representatives from communicating safety concerns to the NRC, and accordingly TU Electric will not attempt to impose or enforce any such prohibition. These individuals or organizations may, at any time, bring safety information to the NRC, if the individual or organization so chooses. To the extent that these provisions prohibit the minority owners from initiating or participating in litigation involving Comanche Peak, including litigation before the NRC, they will continue to be effective and enforceable.

Yours truly,

Wes M. Taylor

RSB/ds



TU ELECTRIC

Log # TXX-93065
File # 10076

February 3, 1993

Wes M. Taylor
Executive Vice President

Mr. Richard E. McCaskill
Executive Vice President and General Manager
Brazos Electric Power Cooperative, Inc.
2404 LaSalle Avenue
Waco, TX 76702-2585

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION (CPSES)
DOCKET NOS. 50-445 AND 50-446
RESPONSE TO NRC REQUEST FOR INFORMATION

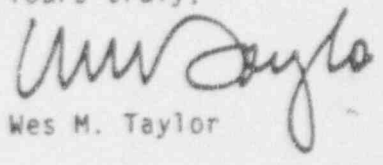
Dear Mr. McCaskill:

In a recent pleading filed by the Nuclear Regulatory Commission (NRC) Staff in connection with the Comanche Peak Steam Electric Station (CPSES) Construction Permit Extension matter, counsel for the NRC Staff took the position that certain provisions of the CPSES minority owner litigation settlement agreements (Section 9.2 and 9.7 [9.6 of the TMPA Agreement]) were in conflict with Commission policy, insofar as they preclude the minority owners from bringing information of regulatory concern to the NRC. On January 12, 1993, the Director of Nuclear Reactor Regulation wrote each of the minority owners (Brazos, TMPA, and Tex-La) and TU Electric expressing concerns about the potentially restrictive provisions of these settlement agreements and asking the minority owners and TU Electric to inform him of what actions have been or will be taken in order to assure that individuals and organizations do not believe that they are precluded by these settlement agreements from coming to the NRC with safety concerns.

TU Electric continues to believe that these settlement agreements, including the provisions cited by the NRC Staff, are consistent with official Commission policy. More particularly, Section 9.7 of each of the settlement agreements specifically provides that each minority owner (as well as those acting on behalf of the minority owners, such as its members, agents, servants, employees, officers, directors, consultants, attorneys, and representatives) was free to comply with Section 210 (now Section 211) of the Energy Reorganization Act, which in turn reflects a policy to ensure that employees of nuclear licensees (such as the minority owners) are free to report safety concerns to the NRC. Furthermore, in said same section of each agreement, each minority owner made affirmative representations and warranties that it did not know of any violation, actual or alleged, of Section 210 that had not previously been disclosed to TU Electric in writing. It was thus clearly the intention of TU Electric to insure that all safety concerns had or would be made known to the NRC.

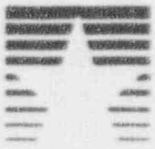
Nevertheless, in order to affirm and clarify TU Electric's intent and to resolve the NRC's Staff's concerns, TU Electric is hereby advising Brazos Electric Power Cooperative, Inc. that the subject provisions are not intended to prohibit the minority owners, their employees, or representatives from communicating safety concerns to the NRC, and accordingly TU Electric will not attempt to impose or enforce any such prohibition. These individuals or organizations may, at any time, bring safety information to the NRC, if the individual or organization so chooses. To the extent that these provisions prohibit the minority owners from initiating or participating in litigation involving Comanche Peak, including litigation before the NRC, they will continue to be effective and enforceable.

Yours truly,



Wes M. Taylor

RSB/ds



Log # TXX-93067
File # 10076

TU ELECTRIC

February 3, 1993

Wes M. Taylor
Executive Vice President

Mr. John H. Butts, Manager
Tex-La Electric Cooperative of Texas, Inc.
P. O. Box 1623
Nacagdoches, TX 75963-1623

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION (CPSES)
DOCKET NOS. 50-445 AND 50-446
RESPONSE TO NRC REQUEST FOR INFORMATION

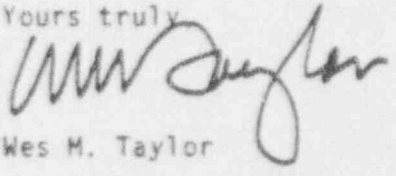
Dear Mr. Butts:

In recent pleading filed by the Nuclear Regulatory Commission (NRC) Staff in connection with the Comanche Peak Steam Electric Station (CPSES) Construction Permit Extension matter, counsel for the NRC Staff took the position that certain provisions of the CPSES minority owner litigation settlement agreements (Sections 9.2 and 9.7 [9.6 of the TMPA Agreement]) were in conflict with Commission policy, insofar as they preclude the minority owners from bringing information of regulatory concern to the NRC. On January 12, 1993, the Director of Nuclear Reactor Regulation wrote each of the minority owners (Brazos, TMPA, and Tex-La) and TU Electric expressing concerns about the potentially restrictive provisions of these settlement agreements and asking the minority owners an TU Electric to inform him of what actions have been or will be taken in order to assure that individuals and organizations do not believe that they are precluded by these settlement agreements from coming to the NRC with safety concerns.

TU Electric continues to believe that these settlement agreements, including the provisions cited by the NRC Staff, are consistent with official Commission policy. More particularly, Section 9.7 of each of the settlement agreements specifically provides that each minority owner (as well as those acting on behalf of the minority owners, such as its members, agents, servants, employees, officers, directors, consultants, attorneys, and representatives) was free to comply with Section 210 (now Section 211) of the Energy Reorganization Act, which in turn reflects a policy to ensure that employees of nuclear licensees (such as the minority owners) are free to report safety concerns to the NRC. Furthermore, in said same section of each agreement, each minority owner made affirmative representations and warranties that it did not know of any violation, actual or alleged, of Section 210 that had not previously been disclosed to TU Electric in writing. It was thus clearly the intention of TU Electric to insure that all safety concerns had or would be made known to the NRC.

Nevertheless, in order to affirm and clarify TU Electric's intent and to resolve the NRC's Staff's concerns, TU Electric is hereby advising Tex-La Electric Power Cooperative of Texas, Inc. that the subject provisions are not intended to prohibit the minority owners, their employees, or representatives from communicating safety concerns to the NRC, and accordingly TU Electric will not attempt to impose or enforce any such prohibition. These individuals or organizations may, at any time, bring safety information to the NRC, if the individual or organization so chooses. To the extent that these provisions prohibit the minority owners from initiating or participating in litigation involving Comanche Peak, including litigation before the NRC, they will continue to be effective and enforceable.

Yours truly,



Wes M. Taylor

RSB/ds

TMPA

Serving the cities of Bryan, Denton, Garland & Greenville.

Februar[illegible]93

Mr. Thomas E. Murley, Director
Office of Nuclear Reactor Regulation
United States Nuclear Regulatory Commission
Washington, D. C. 20655

Dear Mr. Murley:

This will acknowledge receipt of your letter of January 12, 1993. Texas Municipal Power Agency ("TMPA") does not now take, nor has it ever taken, the position that the agreement entered into between it and Texas Utilities Electric Corporation ("TUEC") on February 12, 1988, prohibits either TMPA, someone speaking on behalf of TMPA, or individuals from bringing or assisting others from bringing safety information or concerns to the Nuclear Regulatory Commission ("NRC"). TMPA respectfully disagrees with your conclusions that any language contained in the TMPA/TUEC agreement could have caused a "chilling effect" in the past or may cause such a "chilling effect" in the future resulting in the NRC being deprived of safety information.

Your letter states, "Accordingly, TMPA should take actions to ensure that all individuals and organizations that could be affected by the potentially restrictive provisions in the TMPA agreement clearly understand that...anyone may, at any time, bring safety information to the NRC,..." TMPA and TUEC, being the only parties to the agreement, are the only entities or organizations bound by its terms. TMPA has obtained the written assurance of TUEC, attached hereto, that TUEC does not interpret the agreement to prohibit TMPA, its employees or representatives from communicating safety concerns to the NRC. Likewise, TMPA does not interpret the agreement to contain any such prohibition.

TMPA is unaware of any individual or organization connected with it who has interpreted the language in its February 12, 1988 agreement with TUEC to deprive the NRC of safety information with respect to the CPSES.

Very truly yours,

Ed L. Wagoner

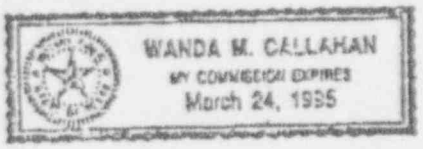
Ed L. Wagoner
Executive Director and General Manager

EW/dv

as Municipal Power Agency P.O. Box 7000 Bryan, Texas 77805 (409) 873-2013

THE STATE OF TEXAS §
§
COUNTY OF GRIMES §

This instrument was acknowledged before me on the 9th day of February, 1993, by Ed L. Wagoner.



Wanda M. Callahan
Notary Public in and for the State of Texas

Wanda M. Callahan
(Printed Name of Notary)

My Commission Expires: 3/24/95

c: Mr. Richard E. McCaskill
Executive Vice President and General Manager
Brazos Electric Power Cooperative, Inc.
2404 LaSalle Avenue
Waco, Texas 76702-2585

Mr. William J. Cahill, Jr.
Group Vice President, Nuclear
Texas Utilities Electric Company
400 North Olive Street, L.B. 81
Dallas, Texas 75201

Mr. John H. Butts, Manager
Tex-La Electric Cooperative of Texas, Inc.
P.O. Box 1623
Nacogdoches, Texas 75963-1623

BRAZOS ELECTRIC COOPERATIVE

BRAZOS ELECTRIC POWER COOPERATIVE, INC.
2404 LaSalle Avenue • P.O. Box 2585
Waco, Texas 76702-2585
(817) 750-6500
FAX (817) 750-6290

Richard E. McCaskill
Executive Vice President
and General Manager

February 10, 1993

Mr. Thomas E. Murley, Director
Office of Nuclear Reactor Regulation
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Docket Nos. 50-445 and 50-446

Dear Mr. Murley:

Your January 12, 1993 letter addressed to me as Executive Vice President and General Manager of Brazos Electric Power Cooperative, Inc. requires me to inform you in writing and under oath or affirmation of what actions Brazos Electric has taken or is taking in order to ensure that individuals and organizations do not believe that they are precluded from coming to the NRC with safety concerns.

Brazos Electric has never read any of the provisions of its July 5, 1988 agreement with Texas Utilities Electric Company (TUEC) as prohibiting the communication of safety information to the NRC, and we have taken no action to stifle any individuals or organizations in such regard. With regard to the experts and consultants working for Brazos Electric in the Comanche Peak matter, on July 6, 1988 they were informed that an agreement with TUEC had been reached and, in these words, "Brazos will no longer be requiring the professional services of you and your associates, and directs that you immediately cease work on any projects undertaken at Brazos' attorneys' direction."

So that our representatives will be aware of NRC's and TU Electric's positions, Brazos Electric has provided its Comanche Peak litigation attorneys with a copy of your January 12, 1993 letter and a copy of a February 3, 1993 letter to me from Wes M. Taylor, Executive Vice President of TU Electric, which I understand to have been written as a result of your January 12, 1993 letter to TU Electric. In his letter, Mr. Taylor states as follows:

> "Nevertheless, in order to affirm and clarify TU Electric's intent and to resolve the NRC's Staff's concerns, TU Electric is hereby advising Brazos Electric

Power Cooperative, Inc. that the subject provisions are not intended to prohibit the minority owners, their employees, or representatives from communicating safety concerns to the NRC, and accordingly TU Electric will not attempt to impose or enforce any such prohibition. These individuals or organizations may, at any time, bring safety information to the NRC, if the individual or organization so chooses."

I trust this information meets your requirements. If you require anything further, please let me know.

Yours very truly,

Richard E. McCaskill

Richard E. McCaskill

REM:ab

cc: Wes M. Taylor, Executive Vice President
TU Electric

OATH

THE STATE OF TEXAS §
COUNTY OF McLENNAN §

BEFORE ME, the undersigned authority, on this day personally appeared RICHARD E. McCASKILL, Executive Vice President and General Manager of Brazos Electric Power Cooperative, Inc., who, being by me duly sworn, upon oath, stated that the information provided in the foregoing letter is true and correct.

Richard E. McCaskill

Richard E. McCaskill

SIGNED AND SWORN TO before me on the 10th day of February, 1993, by the said Richard E. McCaskill.

Yolanda S. Chavez

Notary Public in and for the State of Texas

My commission expires: 10-17-94

443 7981 PAGE.002

TEX-LA ELECTRIC COOPERATIVE OF TEXAS, INC.

February 10, 1993

Mr. Thomas E. Murley
Director, Office of Nuclear Reactor
Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Docket Nos. 50-445 and 50-446

Dear Mr. Murley:

Attached hereto is a document entitled "Declaration of John M. Butts" which is being submitted by Tex-La Electric Cooperative of Texas, Inc. ("Tex-La") in response to your letter dated January 12, 1993. We believe the Declaration and attachments thereto will satisfy the concerns expressed in your letter.

Sincerely yours,

John M. Butts

Attachments

Sft Attached
Distr
2222
1/1

P.O. BOX 631623 • NACOGDOCHES, TEXAS 75963-1623 • 409/560-9532

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PDR ADOCK 05000445
P PDR

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MAR 8 '93 13:18

DECLARATION OF JOHN H. BUTTS

The Declarant, John H. Butts, hereby affirms under oath as follows:

1. I am Manager of Tex-La Electric Cooperative of Texas, Inc. ("Tex-La"), an electric generation and transmission cooperative located in Nacogdoches, Texas.

2. By separate letters dated January 14, 1993, Thomas E. Murley, Director of the Office of Nuclear Reactor Regulation of the Nuclear Regulatory Commission ("NRC"), informed Texas Utilities Electric Company ("TU Electric"), Tex-La and other former owners of the Comanche Peak Steam Electric Station ("CPSES") that certain provisions of settlement agreements between TU Electric and those minority owners of CPSES are unacceptable to the NRC. This Declaration is being submitted in response to Mr. Murley's January 14 letter.

3. The provision of the settlement agreement between Tex-La and TU Electric of concern to the NRC is Section 9.2(d). Section 9.2(d) provides that Tex-La will "encourage and solicit its attorneys . . . not to oppose, or assist any third party in opposing, TU Electric in connection with any matters relating to [CPSES]." The same section also provides that Tex-La "will take all such action as may be necessary or appropriate in order to prevent the consultants and attorneys . . . from participating or assisting in any manner adverse to Tex-La's duty of cooperation . . . . " See Settlement Agreement at § 9.2(d).

4. By letters dated March 28, 1989, Foster De Raitzes, an attorney then with the law firm of Heron, Burchette, Ruckert & Rothwell, notified the consultants who had assisted Tex-La in the litigation between Tex-La and TU Electric that they were requested not to oppose or assist any third party in opposing TU Electric in connection with any matters relating to CPSES. The letter did not, either explicitly or implicitly, communicate to the recipients that they were prohibited from taking safety concerns to the NRC.

5. By letters dated February 10, 1993, Tex-La notified the same consultants who received the March 28, 1989 letters that the NRC had taken the position that § 9.2(d) of the settlement agreement is potentially restrictive because it could be interpreted to prohibit individuals from taking safety concerns to the NRC. Further, Tex-La has informed those individuals that the settlement agreement was not intended to restrict Tex-La's consultants from taking safety concerns to the NRC. A sample copy of one of the letters (without attachments) sent by me, on behalf of Tex-La, is attached hereto as Attachment A.

03. 08. 93 02:17PM * USNRC-OWFN-7F8 P03

6. Also by letter dated February 10, 1993, Tex-La notified its counsel, William M. Burchette, that the settlement agreement should not be interpreted to restrict the submission of safety concerns to the NRC. A copy of that letter (without attachment) is attached hereto at Attachment B.

I declare that the foregoing is true and correct to the best of my knowledge.

John H. Butts

Subscribed and sworn to before me this 10 day of February, 1993.

Tambra Rankin
Notary Public

My Commission Expires:

TAMBRA RANKIN
NOTARY PUBLIC
STATE OF TEXAS
COMM. EXP.
7-17-93

MAR 8 '93 13:20 443 7861 PAGE.005

ATTACHMENT A

TEX-LA ELECTRIC COOPERATIVE OF TEXAS, INC.

February 10, 1993

Mr. Daniel J. Kleitman
Massachusetts Institute of Technology
Department of Mathematics
Room 2-236
Cambridge, MA 02139

Re: Tex-La Electric Cooperative of Texas, Inc.

Dear Mr. Kleitman:

The purpose of this letter is to advise you of correspondence recently received by Tex-La Electric Cooperative of Texas, Inc. ("Tex-La") from the Nuclear Regulatory Commission ("NRC") which has a bearing on a letter which you received from Tex-La's attorneys in March, 1989. Copies of the letters from Tex-La's attorneys and from the NRC are attached hereto.

You should note that, in response to a Petition filed by the National Whistleblower Center and certain of its clients, the NRC has taken the position that, according to its interpretation of certain terms of a settlement agreement between Tex-La and Texas Utilities Electric Company ("TU Electric") which settled the parties' disputes surrounding the Comanche Peak Steam Electric Station ("CPSES"), those terms are unenforceable. Specifically, the NRC states in its letter that language in the settlement agreement restricting Tex-La's right to oppose any aspect of CPSES and requiring Tex-La to "encourage and solicit its attorneys and consultants not to oppose, or assist any third party in opposing, [TU Electric] in connection with any matters relating to CPSES" could have a "chilling effect" on NRC's access to safety information. Thus, according to the NRC these restrictive provisions are "void and unenforceable and . . . anyone may, at any time, bring safety information to the NRC, or assist third parties to do so . . . ."

This letter is sent to you to satisfy the NRC's requirement that Tex-La inform individuals and organizations that they are not precluded from communicating safety concerns relating to CPSES to the NRC. The 1989 letter to you from our attorneys did not intend to imply that Tex-La has the right to prevent or cause any action on your part. Rather, our obligation under the CPSES settlement agreement is only to "encourage and solicit your cooperation." Thank you for your consideration of this matter.

Sincerely yours,

John H. Butts

John H. Butts, Manager
Tex-La Electric Cooperative
of Texas, Inc.

Attachments w/o enclosures

P.O. BOX 631623 • NACOGDOCHES, TEXAS 75963-1623 • 409/560-9532

ATTACHMENT B

TEX-LA ELECTRIC COOPERATIVE OF TEXAS, INC.

February 10, 1993

William H. Burchette, Esq.
Brickfield, Burchette & Ritts, P.C.
1025 Thomas Jefferson St., N.W
Suite 400 East
Washington, D.C. 20007

Dear Bill:

The purpose of this letter is to notify you of a letter which Tex-La Electric Cooperative of Texas, Inc. ("Tex-La") received recently from the Nuclear Regulatory Commission ("NRC"). A copy of the letter is attached for your review.

As you can see from the letter, the NRC believes that the provisions of the settlement agreement between Texas Utilities Electric Company ("TU Electric") and the minority owners of Comanche Peak Steam Electric Station ("CPSES") could be interpreted in a manner that might have a "chilling effect" on individuals desiring to take safety concerns to the NRC. The purpose of this letter is to reaffirm to you that the settlement agreement does not limit your ability to notify the NRC of CPSES-related safety concerns, if you so choose.

Sincerely yours,

John H. Butts

Attachment

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