

Dated: August 13, 2001.

Judith C. Russell,

NCLIS Deputy Director.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-423]

Dominion Nuclear Connecticut, Inc., Millstone Nuclear Power Station, Unit No. 3; Exemption

1.0 Background

The Dominion Nuclear Connecticut, Inc., (the licensee) is the holder of Facility Operating License No. NPF-49 which authorizes operation of the Millstone Nuclear Power Station, Unit No.3 (MP3). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a pressurized water reactor located in New London County, Connecticut.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix G, requires that pressure-temperature (P-T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR Part 50, Appendix G states that "[t]he appropriate requirements on * * * the pressure-temperature limits and minimum permissible temperature must be met for all conditions." Appendix G of 10 CFR Part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Code, Section XI, Appendix G Limits.

To address provisions of amendments to the technical specifications (TSs) P-T limits in the submittal dated April 23, 2001, the licensee requested that the staff exempt MP3 from application of specific requirements of 10 CFR Part 50, Section 50.60(a) and Appendix G, and substitute use of ASME Code Case N-640. Code Case N-640 permits the use of an alternate reference fracture toughness (K_{Ic} fracture toughness curve instead of K_{Ia} fracture toughness curve) for reactor vessel materials in determining the P-T limits. Since the K_{Ic} fracture toughness curve shown in ASME Section XI, Appendix A, Figure A-2200-1 provides greater allowable fracture toughness than the corresponding K_{Ia} fracture toughness

curve of ASME Section XI, Appendix G, Figure G-2210-1, using the K_{Ic} fracture toughness, as permitted by Code Case N-640, in establishing the P-T limits would be less conservative than the methodology currently endorsed by 10 CFR Part 50, Appendix G. Considering this, an exemption to apply the Code Case would be required by 10 CFR 50.60.

The licensee proposed to revise the P-T limits in the TSs for MP3 using the K_{Ic} fracture toughness curve, in lieu of the K_{Ia} fracture toughness curve, as the lower bound for fracture toughness.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P-T operating limits curve is more technically correct than the K_{Ia} curve since the rate of loading during a heatup or cooldown is slow and is more representative of a static condition than a dynamic condition. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heatup and cooldown process of a reactor vessel. The staff has required use of the initial conservatism of the K_{Ia} curve since 1974 when the curve was codified. This initial conservatism was necessary due to the limited knowledge of RPV materials. Since 1974, additional knowledge has been gained about RPV materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential RPV failure. In addition, P-T curves based on the K_{Ic} curve will enhance overall plant safety by opening the P-T operating window with the greatest safety benefit in the region of low temperature operations.

In summary, the ASME Section XI, Appendix G, procedure was conservatively developed based on the level of knowledge existing in 1974 concerning RPV materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The Commission concurs that this increased knowledge permits relaxation of the ASME Section XI, Appendix G requirements by applying the K_{Ic} fracture toughness, as permitted by Code Case N-640, while maintaining, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own

initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The staff considers that pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances are present and that an exemption may be granted to allow use of the methodology of Code Case N-640 to revise the P-T limits for MP3 because it would provide an adequate margin of safety against brittle fracture. See the safety evaluation supporting these findings dated August 14, 2001.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants Dominion Nuclear Connecticut, Inc., an exemption from the requirements of 10 CFR 50.60(a) and 10 CFR Part 50, Appendix G, for MP3. Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 42567).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 14th day of August.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-445 AND 50-446]

TXU Electric, Comanche Peak Steam Electric Station, Units 1 and 2; Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Conforming Amendments, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the transfer of Facility Operating License Nos. NPF-87 and NPF-89 for Comanche Peak Steam Electric Station (CPSES),

Units 1 and 2, respectively, currently held by TXU Electric, as owner and licensed operator of CPSES, Units 1 and 2. The transfer would be to an as yet unnamed new company, herein identified as TXU Genco, TLP. TXU Electric proposes to provide NRC with the actual name of this entity no later than seven days prior to issuance of any conforming amendments. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer, including replacing TXU Electric on the licenses with the new company name. TXU Electric also proposes a license amendment to delete the Antitrust Conditions in Appendix C of the CPSES, Units 1 and 2, Facility Operating Licenses, which is the subject of a separate **Federal Register** notice. CPSES, Units 1 and 2, are located in Somervell and Hood counties, Texas.

According to an application for approval filed by TXU Electric, TXU Genco, TLP would assume title to the facility following approval of the proposed license transfer, and would be responsible for the operation, maintenance, and eventual decommissioning of CPSES, Units 1 and 2. No physical changes to CPSES, Units 1 and 2, or operational changes are being proposed in the application.

Pursuant to 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action, involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards

considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By September 10, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b) (1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: OGCLT@NRC.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held, and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by September 19, 2001, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such

comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated June 19, 2001, a nonproprietary version of which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room link at the NRC Web site <http://www.nrc.gov/ADAMS/index.htm>. If you do not have access to ADAMS or if there are problems accessing the document located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or send an email to pdr@nrc.gov.

Dated at Rockville, Maryland this 14th day of August, 2001.

For the Nuclear Regulatory Commission.

David H. Jaffe,

Senior Project Manager, Section I, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 and 50–446]

TXU Electric; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendments to Facility Operating License (FOL) Nos. NPF–87 and NPF–89 issued to TXU Electric (the licensee) for operation of the Comanche Peak Steam Electric Station, Units 1 and 2 (CPSES), located in Somervell and Hood Counties, Texas.

The proposed amendments would delete the anti-trust conditions contained in Appendix C to the FOLs for CPSES. The licensee requested the proposed amendments in the context of its application for the Commission's