



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

PROPOSED ORGANIZATIONAL AND FINANCIAL RESTRUCTURING

TEXAS UTILITIES COMPANY PARENT HOLDING COMPANY FOR

TEXAS UTILITIES ELECTRIC COMPANY

DOCKET NOS. 50-445 AND 50-446

COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2

I. BACKGROUND

Texas Utilities Company (TUC), the parent holding company of Texas Utility Electric Company (TUEC), proposes to acquire ENSERCH Corporation (ENSERCH), which is a company engaged in natural gas and oil exploration and production, natural gas pipeline gathering, processing and marketing, and natural gas distribution and power generation (Letter dated September 20, 1996 from TUEC, Attachment 2, p. 1). TUC's acquisition of ENSERCH will be accomplished through the following merger transactions: (1) the formation of a new Texas Corporation, TUC Holding Company, and two new subsidiaries of TUC Holding Company (i.e., TUC Merger Corporation and Enserch Merger Corporation); (2) the merger of TUC Merger Corporation with and into TUC with TUC being the surviving corporation; and (3) the merger of Enserch Merger Corporation with and into ENSERCH with ENSERCH being the surviving company. Upon the consummation of these transactions, TUC and ENSERCH will both become wholly owned subsidiaries of TUC Holding Company, which will change its name to TUC (TUEC letter, Attachment 2, p. 2). In addition, the new TUC will be owned by former TUC stockholders and ENSERCH stockholders, holding 94 percent and 6 percent of the new TUC respectively. TUEC would continue to remain the sole owner and operator of CPSES. In the view of the Nuclear Regulatory Commission (NRC) staff, the transactions effecting TUC's acquisition of ENSERCH result in an indirect transfer of the licenses to operate the Comanche Peak Steam Electric Station, Units 1 and 2 (CPSES) through transfer of control of the licenses. Consequently, the staff believes that the transfer of control is subject to the license transfer provisions of 10 CFR 50.80.

TUEC indicates that the acquisition of ENSERCH will offer significant strategic and financial benefits to TUC by creating a stronger company with expertise in both electric and gas utility operations that is able to offer its customers enhanced service options, maintain competitive rates, efficiently pursue non-utility operations, and take advantage of complementary operational functions as well as reduced administrative costs, in order to participate effectively in the increasingly competitive utilities industry. (TUEC letter, Attachment 2, p. 2).

II. FINANCIAL QUALIFICATIONS

Based on the information provided in TUEC's application, the staff finds that there will be no near-term substantive change in TUEC's financial ability to contribute appropriately to the operations and decommissioning of the CPSES units as a result of the proposed restructuring. TUEC also would remain an "electric utility" as defined in 10 CFR 50.2, engaged in the generation, transmission, and distribution of electric energy for wholesale and retail sale, subject to the rate regulation of the Texas Public Utility Commission. Thus, pursuant to 10 CFR 50.33(f), TUEC is exempt from further financial qualifications review as an electric utility.

However, in view of the NRC's concern that restructuring can lead to a diminution of assets necessary for the safe operation and decommissioning of a licensee's nuclear power plants, the NRC has sought to obtain commitments from its licensees that initiate restructuring actions not to transfer significant assets from the licensee without notifying the NRC. TUEC has made the following such commitment:

TU Electric agrees to provide the Director of Nuclear Reactor Regulation with a copy of any application to any other regulatory authority, at the time it is filed, to transfer (excluding grants of a security interest or liens) from TU Electric to its parent company, or any other affiliated company, facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding one percent (1%) of TU Electric's consolidated net utility plant, as recorded on TU Electric's books of account. (TUEC letter, Attachment 2, p. 15-16.)

The staff believes that this commitment, modified to reflect reporting of transfers of 10 percent (10%) or more of TU Electric's consolidated net utility plant, as a condition to the NRC's consent to the proposed restructuring, will enable the NRC to ensure that TUEC will continue to maintain adequate resources to contribute to the safe operation and decommissioning of the CPSES, Units 1 and 2.

III. MANAGEMENT AND TECHNICAL QUALIFICATIONS

The application states that there will be no change in the management and technical qualifications of TUEC's nuclear organization as a result of the restructuring. The proposed holding company structure retains the utility as a discrete and wholly separate entity that will function in the same fashion as it did prior to restructuring.

Based upon the continuity of TUEC's nuclear organization and management described above, the staff finds that the proposed restructuring will not adversely affect TUEC's technical qualifications or the management of its nuclear plants.

IV. ANTITRUST

The staff has conducted a threshold competitive (antitrust) review to determine whether any significant changes in the relevant markets will result from the restructuring of TUC or acquisition of ENSERCH. It does not appear that the restructuring or the acquisition of ENSERCH by TUC would have any significant competitive consequences. Accordingly, there is no apparent basis for the staff to make a finding of "significant change" under Section 105c(2) of the Atomic Energy Act.

Thus, there do not appear to be any further antitrust issues for which the NRC is responsible under Section 105 of the Atomic Energy Act.

V. FOREIGN OWNERSHIP

Information before the staff indicates that neither the new Texas Utilities Holding Company, TUC, nor TUEC will be owned, controlled, or dominated by any alien, foreign corporation, or foreign government.

VI. ENVIRONMENTAL CONSIDERATION

Pursuant to 10 CFR 51.21 and 51.35, an environmental assessment and finding of no significant impact was published in the Federal Register on November 19, 1996 (61 FR 58897).

VII. CONCLUSIONS

In view of the foregoing, the staff concludes that the proposed restructuring of TUEC's parent company, TUC, and acquisition of ENSERCH will not adversely affect TUEC's financial or technical qualifications with respect to the operation and decommissioning of the CPSES units. Also, there do not appear to be any antitrust or foreign ownership considerations related to the CPSES licenses that would result from TUC's acquisition of ENSERCH or the transactions to facilitate such. Thus, the proposed transactions will not affect the qualifications of TUEC as holder of the licenses, and the transfer of control of the licenses, to the extent effected by the proposed transactions, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. Accordingly, it is concluded that the proposed restructuring should be approved.

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