including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of November, 1996.

Ivan Strasfeld

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 96–29035 Filed 11–12–96; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials; Opening of Materials; Correction

AGENCY: National Archives and Records Administration (NARA).

ACTION: Correction.

SUMMARY: This document corrects the hours that the tape recordings described in the notice published in the Federal Register on October 11, 1996, will be made available to the general public in NARA's research room at 8601 Adelphi Road, College Park, MD.

In notice document 96–26174 beginning on page 53460 in the issue of Friday, October 11, 1996, make the following correction:

In the second full paragraph in the second column of page 53460, the hours are corrected to read ''between 9 a.m. and 4:30 p.m.''

Dated: November 8, 1996.

Nancy Y. Allard,

Alternate Federal Register Liaison.

[FR Doc. 96–29142 Filed 11–12–96; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 10:00 a.m., Friday, November 1, 1996.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices); (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy) and 9(B) Disclosure would significantly frustrate implementation of a proposed Agency action* * *).

MATTERS TO BE CONSIDERED: Personnel Matters.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 273–1940.

Dated: Washington, D.C., November 7, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 96–29194 Filed 11–8–96; 3:17 pm]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–245, 50–336, and 50–423; License Nos. DPR–21, DPR–65, and NPF–49]

Northeast Nuclear Energy Company (Millstone Nuclear Power Station Units 1, 2 and 3); Order Requiring Independent, Third-Party Oversight of Northeast Nuclear Energy Company's Implementation of Resolution of Millstone Station Employees' Safety Concerns

I

Northeast Nuclear Energy Company (Licensee) is the holder of Facility Operating License Nos. DPR–21, DPR–65, and NPF–49 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Part 50 on October 31, 1986,[1] September 26, 1975, and January 31, 1986, respectively. The licenses authorize the operation of Millstone Units 1, 2 and 3 in accordance with conditions specified therein. All three facilities are located on the Licensee's site in Waterford, Connecticut.

II

Over the past several years, the Licensee's management has failed to ensure compliance with regulatory requirements. In an attempt to address this compliance problem, the NRC issued an Order on August 14, 1996 establishing independent, third-party oversight of corrective actions for design and plant operation deficiencies. The August 14, 1996 Order, directing the implementation of an Independent Corrective Action Verification Program (ICAVP) for the Millstone facilities, summarizes the Licensee's failures to meet Criterion XVI of Appendix B to 10 CFR Part 50 and other NRC requirements. The August 14, 1996 Order also outlines what the NRC found to be ineffective implementation of the Licensee's oversight programs, including its NRC-approved quality assurance (QA) program. The purpose of the ICAVP is to provide independent verification, for selected systems, that the Licensee's own Configuration Management Plan (CMP) has identified and resolved existing problems, documented and utilized licensing and design bases, and established programs,

[1] Millstone Unit 1 was issued its provisional operating license on October 7, 1970, and commenced operation on March 1, 1971. This unit received a full term operating license on October 31, 1986.

processes, and procedures for effective configuration management in the future.

This Order addresses past failures in management processes and procedures for handling safety issues raised by employees, and in ensuring that the employees who raise safety concerns are not discriminated against. As discussed below, the Commission is concerned about the manner in which the Licensee has treated employees who brought safety and other concerns to the attention of the Licensee's management. As evidenced by the large number of deficiencies currently being identified at all three Millstone plants, it appears that some employees have been reluctant to identify safety issues. Both the NRC and the Licensee rely on a defense-in-depth approach to ensuring safety. The persistence of an environment where employees are reluctant to raise safety concerns can erode the safety-consciousness of the work-place and, thereby, can affect safety. As the Commission has stated, it expects that licensees will establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation, and in which such concerns are promptly reviewed, given the proper priority based on their potential safety significance, and appropriately resolved with timely feedback to employees. Such an environment is critical to a licensee's ability to safely carry out licensed activities[2] in the work-place; thus it can affect safety.

Over the past several years, numerous Licensee assessments, audits, and internal task group studies have been conducted to assess employee safety concerns programs at the Millstone Station.

In January 1996, the Licensee completed a review[3] of the effectiveness of its Nuclear Safety Concerns Program (NSCP) in taking corrective actions related to employee concerns and ensuring that the employees who raise concerns are treated appropriately. The findings of the Licensee's 1996 review were similar to those of previous Licensee assessments, studies, and audits performed since 1991. Some of the common findings were that management (1) lacked accountability, (2) inadequately resolved identified problems, and (3) tended to punish rather than reward employees who raised safety concerns. The Licensee's 1996 study team found that many of these problems still exist, because the Licensee had not implemented past recommendations in a coordinated and effective manner. The review also found that a concurrent lack of commitment to and accountability in implementing corrective actions had resulted in a continuing failure to proactively resolve emerging issues. It commented that this situation was compounded by the general inability on the part of individual Licensee managers to admit when they are in error. All of these factors have contributed to a strained and ineffective relationship between management and some employees. Finally, the study team concluded that the effectiveness of the NSCP has been historically undermined by a lack of executive management support.

In May 1996, the Nuclear Committee of the Licensee's Board of Trustees established a Nuclear Committee Advisory Team (NCAT) to evaluate the performance of the Licensee's nuclear program. A Fundamental Cause Assessment Team (FCAT) was also formed to evaluate whether management actions are effectively addressing the causes of declining performance.

The FCAT identified[4] the following fundamental causes of the decline in performance:

- The top level of the Licensee's management did not consistently exercise effective leadership and articulate and implement appropriate vision and direction;
- The nuclear organization did not establish and maintain high standards and expectations; and
- The nuclear organization's leadership, management, and interpersonal skills were weak.

The NRC has also performed several assessments of the way that the Licensee has dealt with technical and safety concerns raised at the Millstone facilities and the manner in which the Licensee has treated those employees who have raised safety concerns. On December 12, 1995, the NRC staff initiated an historical review of both the Licensee's and the NRC's handling of Millstone employee concerns and allegations, covering the past 10 years.[5] The staff's review included indepth case studies of selected employees' concerns and allegations to identify root causes, common patterns between cases, and lessons learned. The Millstone Independent Review Group reported:[6]

1. A large number of allegations (an average of 42 per year) were being raised to the NRC, which indicated that the Licensee's own programs were not effective in resolving its employee concerns.
2. The Licensee's employees believed that the managers responsible for discrimination were not appropriately disciplined.
3. The Licensee's management frequently identified problems but was ineffective in implementing corrective actions.
4. The Licensee's management was reluctant to admit mistakes.
5. The Licensee's managers lacked skill in handling concerns and were generally not supportive of their employees raising concerns. There was a lack of communication along the chain of command and across parallel organizational lines.

The Millstone Independent Review Group and the Licensee's recent internal reviews have produced consistent findings for which corrective actions have not yet been effectively implemented. It is clear that the licensee has not established a safety-conscious environment.

III

In light of the foregoing, I have concluded that the Licensee must take action to correct and improve its handling of safety concerns raised by its employees so that the NRC can have confidence that concerns will be acted on promptly and adequately, and that employees who bring forth such concerns can do so without fear of retaliation or retribution.

In this Order, the NRC directs that, prior to resumption of power operations, the Licensee shall develop, submit to the NRC, and implement a comprehensive plan for reviewing and dispositioning safety issues raised by the Licensee's employees and ensuring that employees who raise safety concerns are not subject to discrimination. Additionally, the Licensee shall retain an independent third-party, subject to the approval of the NRC, to oversee its implementation of its comprehensive plan. The employees of the third-party organization shall have unfettered site access after meeting the NRC's access authorization requirements.

The independent third-party is to develop and submit for NRC approval

[2] Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation; Policy Statement, 61 FR 24336 (May 14, 1996). The attributes of a safety-conscious environment are described in the Policy Statement.

[3] Millstone Employee Concerns Assessment Team Report, dated January 29, 1996.

[4] Report of the Fundamental Cause Assessment Team, dated July 12, 1996.

[5] Millstone Independent Review Group—Handling of Employee Concerns and Allegations at Millstone Nuclear Power Station, Units 1, 2, and 3. Prior NRC studies are discussed in this report.

[6] Transcribed public meetings to report the review group findings, held on August 7 and 8, 1996 in the vicinity of the plant.

an oversight plan. The independent third-party shall monitor and oversee the Licensee's efforts to correct and prevent repetition of its past failures in its treatment of employee concerns and of those employees who raised such concerns. The oversight plan shall include observation and monitoring of the Licensee's activities, performance of technical and audit reviews, investigation of concerns, and assessment of changes in the Licensee's treatment of employee concerns as compared to past practices. This oversight must be comprehensive in scope and cover all NRC-regulated activities at the Millstone facilities. Recommendations are to be made to address the handling of specific concerns as well as the Licensee's programs and processes for handling concerns.

The qualifications of the independent third-party must include the expertise necessary to audit technical reviews of employee concerns, monitor corrective actions, recognize technical weaknesses in approaches to concerns taken by the Licensee, audit and determine the adequacy of the Licensee's investigations into harassment, intimidation, and discrimination complaints, and conduct employee surveys to determine the views of the Licensee's employees on the success and completeness of these activities. The factors to be examined by the independent organization include actions taken or to be taken by the Licensee to create an environment in which employees of both the Licensee and onsite contractors are encouraged to raise concerns and the timeliness and thoroughness with which such concerns are reviewed and resolved, including how employees are informed of results. The third-party organization chosen to oversee the conduct of the Licensee's comprehensive plan must be independent of the Licensee, such that none of its members has had any direct, previous involvement with the activities at the Millstone Station that the organization will be overseeing.

The independent third-party is to report concurrently to the NRC and Licensee, on at least a quarterly basis, the results of its oversight activities, including all findings and recommendations.

After the NRC receives the Licensee's comprehensive plan and the independent third-party oversight plan, a notice of availability of the plans will be published in the Federal Register and one or more public meetings will be held to allow members of the public to comment on the plans. The results of the NRC review and public comments on the third-party oversight plan will be forwarded to the Licensee and the independent third-party for evaluation and implementation as appropriate.

IV

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It is hereby ordered* That, prior to restart of any Millstone units:

1. Within 60 days from the date of this Order, the Licensee shall develop, submit for NRC review, and begin to implement a comprehensive plan for (a) reviewing and dispositioning safety issues raised by its employees and (b) ensuring that employees who raise safety concerns are not subject to discrimination. The comprehensive plan shall address the root causes of past performance failures as described in the Licensee's July 12, 1996 report of the Fundamental Cause Assessment Team and the NRC's September 1996 report of the Millstone Independent Review Group, with the objective of meeting a goal of achieving a safety-conscious environment.

2. Within 30 days from the date of this Order, the Licensee shall submit, for NRC approval, a proposed independent, third-party organization to oversee implementation of the above comprehensive plan. The independent third-party shall be approved by the NRC and its activities, under this Order, are subject to continuing NRC oversight. The independent third-party shall oversee plan implementation by (a) observing and monitoring the Licensee's activities; (b) performing technical reviews; (c) auditing and investigating, when necessary, cases of alleged harassment, intimidation, and discrimination; (d) auditing and reviewing the Licensee's handling of employee safety concerns; and (e) assessing and monitoring the Licensee's performance. Within 30 days of the NRC's approval of the third-party, an oversight plan for conduct of this third-party oversight shall be developed by the third-party and forwarded for NRC review. NRC approval of the oversight plan is required prior to its implementation. Reports on oversight activities, findings, and recommendations shall be provided to both the licensee and the NRC at least quarterly following NRC approval of the oversight plan. The plan shall specify procedures for concurrent reporting of oversight activities, findings, and recommendations to the NRC and the Licensee. The Licensee will provide a response to each recommendation. The Licensee's comprehensive plan shall allow for revisions based upon the Licensee's experience in implementation of its plan and comments and recommendations of the independent third-party and/or the NRC.

3. If the independent third-party receives allegations of safety concerns, it is to encourage the alleger to bring those concerns to the attention of the Licensee. If the alleger elects not to do so, the independent third-party is to encourage the alleger to report the concerns to the NRC. If the alleger does not elect to report the safety concerns to either the Licensee or the NRC, the independent third-party is to accept the allegation and forward it directly to the NRC. The independent third-party is to develop procedures for protecting the identity of any such allegers and limiting the disclosure of the allegers' identity to those with a need to know.[7]

4. The plan for independent, third-party oversight will continue to be implemented until the Licensee demonstrates, by its performance, that the conditions which led to the requirement of that oversight have been corrected to the satisfaction of the NRC.

V

The Director, Office of Nuclear Reactor Regulation, may, in writing, relax or rescind this Order upon demonstration by the Licensee of good cause.

VI

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension.

The Licensee's answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and set forth the matters of fact or law on which the Licensee or any other person adversely affected relies and the reasons as to why the Order should not

[7] Such procedures may not withhold the identity of any alleger or any information related to allegations from the NRC.

have been issued. Any answer or request for a hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies shall also be sent to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406–1415; and to the Licensee if the answer or hearing request is by a person other than the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order shall be sustained.

In the absence of any request for a hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be effective and final 20 days from the date of this Order without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland, this 24th day of October 1996.

For the Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–28996 Filed 11–12–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric Company; Comanche Peak Steam Electric Station, Units 1 and 2

Notice is hereby given that the United States Nuclear Regulatory Commission (the Commission) is considering approval under 10 CFR 50.80 of an application concerning the proposed corporate restructuring of Texas Utilities Company (TUC), the parent holding company, for Texas Utilities Electric Company (TUEC), the licensee for Comanche Peak Steam Electric Station (CPSES), Units 1 and 2. By letter dated September 20, 1996, TUEC informed the Commission that TUC 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. 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 Texas Utilities Company. TUEC would continue to remain the sole owner and operator of CPSES. Upon consummation of the restructuring, current stockholders of TUC would become stockholders of the new Texas Utilities Company and would hold approximately 94 percent of the issued and outstanding shares of common stock of the new Texas Utilities Company.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license after notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this action, see the licensee's letter dated September 20, 1996, with the following attachments: TUEC's Request for Consent and the Joint Proxy Statement/Prospectus filed with the Securities and Exchange Commission. These documents are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Dated at Rockville, Maryland, this 6th day of November 1996.

For the Nuclear Regulatory Commission.

William D. Beckner,

Director, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–28995 Filed 11–12–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Probabilistic Risk Assessment will hold a meeting on November 21 and 22, 1996, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, November 21, 1996—8:30 a.m. until the conclusion of business.

Friday, November 22, 1996—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss the NRC staff's approach to codify risk-informed, performance-based regulation through development of Standard Review Plan (SRP) section(s) and associated regulatory guide(s). The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the