

December 14, 2004

Mr. James J. Sheppard  
President and Chief Executive Officer  
STP Nuclear Operating Company  
South Texas Project Electric  
Generating Station  
P. O. Box 289  
Wadsworth, TX 77483

SUBJECT: SOUTH TEXAS PROJECT, UNITS 1 AND 2 - NOTICE OF CONSIDERATION  
OF APPROVAL OF TRANSFER OF FACILITY OPERATING LICENSES AND  
CONFORMING AMENDMENTS, AND OPPORTUNITY FOR A HEARING  
(TAC NOS. MC4917 AND MC4918)

Dear Mr. Sheppard:

Enclosed is a copy of a "Notice of Consideration of Approval of Transfer of Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing" related to the application dated October 21, 2004, from STP Nuclear Operating Company. This application, filed pursuant to Section 50.80 of Title 10 of the *Code of Federal Regulations*, seeks NRC approval of the direct transfer of control of Facility Operating License Nos. NPF-76 and NPF-80 for South Texas Project, Units 1 and 2, respectively, to the extent held by AEP Texas Central Company to Texas Genco, LP and/or City Public Service Board of San Antonio. The application also seeks, pursuant to 10 CFR 50.90, conforming amendments to reflect the transfer of the licenses.

This notice is being forwarded to the Office of the Federal Register for publication.

Sincerely,

**/RA/**

David H. Jaffe, Senior Project Manager, Section 1  
Project Directorate IV  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

Enclosure: As stated

cc w/encl: See next page

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Docket Nos. 50-498 and 50-499

Enclosure: As stated

cc w/encl: See next page

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ACCESSION NO.: ML043220180

BThomas

RidsNrrDripRprp (CHaney)

RidsOgcRp

RidsAcrsAcnwMailCenter

RidsRgn4MailCenter (AHowell)

RidsNrrLADBaxley

OFFICE	PDIV-1/PM	PDIV-1/LA	OGC	PDIV-1/SC(A)
NAME	DJaffe	DBaxley	SUttal(NLO)	MWebb
DATE	11/29/04	11/29/04	12/13/04	12/14/04

OFFICIAL RECORD COPY

South Texas Project, Units 1 & 2

cc:

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City of Austin  
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Austin, TX 78704

Mr. J. J. Nesrsta  
Mr. R. K. Temple  
City Public Service Board  
P. O. Box 1771  
San Antonio, TX 78296

Mr. C. A. Johnson/ R. P. Powers  
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700 Galleria Parkway  
Atlanta, GA 30339-3064

Regional Administrator, Region IV  
U.S. Nuclear Regulatory Commission  
611 Ryan Plaza Drive, Suite 400  
Arlington, TX 76011

D. G. Tees/R. L. Balcom  
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Houston, TX 77251

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Bay City, TX 77414

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Brian Almon  
Public Utility Commission  
William B. Travis Building  
P. O. Box 13326  
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Austin, TX 78701-3326

November 2004

South Texas Project, Units 1 & 2

-2-

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Office of Permitting, Remediation  
and Registration  
Texas Commission on  
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MC-122  
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Mr. Terry Parks, Chief Inspector  
Texas Department of Licensing  
and Regulation  
Boiler Division  
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Austin, TX 78711

Mr. Ted Enos  
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Ft. Worth, Texas 76109

UNITED STATES NUCLEAR REGULATORY COMMISSION

STP NUCLEAR OPERATING COMPANY, ET AL.

SOUTH TEXAS PROJECT, UNITS 1 AND 2

DOCKET NOS. 50-498 AND 50-499

NOTICE OF CONSIDERATION OF APPROVAL OF APPLICATION

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 issuance of an order under Section 50.80 of Title 10 of the *Code of Federal Regulations* (10 CFR), approving the direct transfer of Facility Operating License Nos. NPF-76 and NPF-80 for South Texas Project (STP), Units 1 and 2, respectively, to the extent held by AEP Texas Central Company (TCC). The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer, including removing references to TCC in the licenses.

The application requests the consent of the NRC to the proposed direct transfer of the STP, Units 1 and 2, licenses to the extent held by TCC by virtue of the direct transfer of TCC's 25.2 percent undivided ownership interest in STP, Units 1 and 2 (TCC's ownership interest in STP) to STP co-owners Texas Genco, LP (Texas Genco) and/or City Public Service Board of San Antonio (CPS). According to the application, it is currently anticipated that the following proportionate shares of TCC's ownership interest in STP will be transferred to Texas Genco and CPS: a 13.2 percent undivided ownership interest to Texas Genco and a 12 percent undivided ownership interest to CPS. If, however, the transfer to either Texas Genco or CPS

fails to take place, the party whose transfer has not failed to take place will be obligated, subject to the terms and conditions of a September 3, 2004, Purchase and Sale Agreement between TCC, CPS, and Texas Genco (Purchase and Sale Agreement), to purchase all of TCC's ownership interest in STP.

(In a separate but parallel action, an October 12, 2004, application requests the consent of the NRC to the proposed indirect transfer of control of the STP, Units 1 and 2, licenses to the extent held by Texas Genco by virtue of the transfer of ownership of approximately 81 percent of the stock of Texas Genco's indirect parent company, Texas Genco Holdings Inc. (TGN), from CenterPoint Energy, Inc., (CenterPoint Energy) to GC Power Acquisitions, LLC (GC Power). Texas Genco is an indirect subsidiary of TGN and TGN is an indirect subsidiary of CenterPoint Energy. The transaction would result in the indirect transfer of control of Texas Genco's 30.8 percent undivided ownership interest in STP, Units 1 and 2, or greater interest if the direct transfer described herein, to Texas Genco, has been consummated. In addition to its 30.8 percent undivided ownership interest in STP, Units 1 and 2, Texas Genco holds a corresponding 30.8 percent interest in STP Nuclear Operating Company (STPNOC), a not-for-profit Texas corporation, which is the licensed operator of STP, Units 1 and 2. The application further requests, as necessary, approval of the indirect transfer of control of this 30.8 percent interest in STPNOC, to the extent such indirect transfer would result in an indirect transfer of the licenses as held by STPNOC, thereby requiring NRC approval.)

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 direct 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.

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 with regard to the license transfer application, are discussed below.

Within 20 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice set forth in Subpart M, "Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed within 20 days after the date of publication of this notice, the Commission or a presiding officer designated by the Commission or by the Chief Administrative

Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: 1) the name, address and telephone number of the requestor or petitioner; 2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; 3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall: 1) Provide a brief explanation of the bases for the contention; 2) Demonstrate that the issue raised in the contention is within the scope of the proceeding; 3) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding; and 5) Provide a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner intends to rely



to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed by: 1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; 2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; 3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV); or 4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by email to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the

request for hearing and petition for leave to intervene should also be sent to Mr. John E. Matthews, Morgan, Lewis, & Bockius, LLP, 1111 Pennsylvania Avenue, NW, Washington, DC 20004, attorney for the licensee.

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.

For further details with respect to this action, see the application dated October 12, 2004, of which, a nonproprietary version is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams/html>. Persons who don't have access to ADAMS or who encounters problems accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland this 14<sup>th</sup> day of December 2004. .

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

David H. Jaffe, Senior Project Manager, Section 1  
Project Directorate IV  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation