

January 12, 2006

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 - ORDER APPROVING
APPLICATION REGARDING PROPOSED ACQUISITION (TAC NOS. MC8629
AND MC8630)

Dear Mr. Sheppard:

By application dated October 14, 2005, STP Nuclear Operating Company (STPNOC), acting on behalf of Texas Genco, LP (Texas Genco) and NRG Energy, Inc. (NRG Energy) (together, the applicants), requested that the United States Nuclear Regulatory Commission (NRC), pursuant to 10 CFR 50.80, consent to the indirect license transfers that would be effected by the indirect transfer of control of Texas Genco's 44 percent undivided ownership interest in the South Texas Project Electric Generating Station, Units 1 and 2 (STP). NRG Energy plans to acquire all of the outstanding equity of Texas Genco LLC, which indirectly owns 100 percent of Texas Genco.

The enclosed Order approves the indirect transfer of the licenses for STP as held by Texas Genco. It also approves the indirect transfer of the licenses as held by STPNOC, the licensed operator that is owned in part by Texas Genco, to the extent the NRG Energy acquisition would result in an indirect transfer of control of STPNOC. The Order will be placed in the NRC public document room (PDR), added to the Agencywide Documents Access and Management System Publicly Available Records System (ADAMS PARS) Library and has been forwarded to the Office of the Federal Register for publication.

J. Sheppard

-2-

Enclosures 2 and 3 contain the non-proprietary and proprietary versions, respectively, of the NRC staff's safety evaluation (SE) related to the preceding actions. The non-proprietary version of the SE will be placed in the NRC PDR and added to the ADAMS PARS Library.

Sincerely,

/RA/

Mohan C. Thadani, Senior Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

Enclosures: 1. Order
2. Safety Evaluation (Non-proprietary)
3. Safety Evaluation (Proprietary)

cc w/o encl 3: See next page

J. Sheppard

-2-

Enclosures 2 and 3 contain the non-proprietary and proprietary versions, respectively, of the NRC staff's safety evaluation (SE) related to the preceding actions. The non-proprietary version of the SE will be placed in the NRC PDR and added to the ADAMS PARS Library.

Sincerely,

/RA/

Mohan C. Thadani, Senior Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

- Enclosures:
1. Order
 2. Safety Evaluation (Non-proprietary)
 3. Safety Evaluation (Proprietary)

cc w/o encl 3: See next page

DISTRIBUTION

PUBLIC

LPLIV R/F

RidsNrrOd (Jdyer)

RidsNrrDorID (CHaney)

RidsNrrDorLplg (DTerao)

RidsNrrPMMThadani

RidsNrrLADJohnson

GHill (4)

RidsNrrDorIDpr (BKS1)

RidsOgcRp

RidsOpaMail (SBurnell)

RidsAcrsAcnwMailCenter

RidsSecyMailCenter

RidsAdraDrp (AMcKeigney)

JDixon-Herrity (OEDO)

RidsNrrAdraDpr (EMcKenna)

RidsRgn4MailCenter (CJohnson)

ADAMS Accession No.: Package ML053630182; Letter+Order+NonPropSE ML053630163; Proprietary SE ML053630187

NRR-106

*No significant change in SE input

OFFICE	NRR/LPL4/PM	NRR/LPL4/LA	NRR/PFB/BC	OGC	NRR/LPL4/BC	NRR/DORL/D
NAME	MThadani	DJohnson	EMcKenna*	Uttal	MFields for DTerao	CHaney
DATE	1/4/06	1/3/06	12/28/05	1/10/06	1-9-06	1/12/06

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
TEXAS GENCO, LP,)	Docket Nos. 50-498 and 50-499
)	
STP NUCLEAR OPERATING COMPANY)	
)	License Nos. NPF-76 and NPF-80
(South Texas Project,)	
Units 1 and 2))	

ORDER APPROVING APPLICATION REGARDING PROPOSED INDIRECT ACQUISITION
OF TEXAS GENCO, LP BY NRG ENERGY, INC.

I.

STP Nuclear Operating Company (STPNOC), Texas Genco, LP (Texas Genco), the City Public Service Board of San Antonio (CPS), and the City of Austin, Texas (COA) are co-holders of Facility Operating Licenses (which are numbered NPF-76 and NPF-80), that authorize the possession, use, and operation of the South Texas Project, Units 1 and 2 (the facility or STP). STPNOC is licensed by the United States Nuclear Regulatory Commission (NRC or the Commission) to operate STP. Texas Genco, CPS, and COA are co-owners of the facility and licensed to possess STP. The facility is located in Matagorda County, Texas.

II.

By application dated October 14, 2005, STPNOC, acting on behalf of Texas Genco and NRG Energy, Inc. (NRG Energy) (together, the applicants), requested that the NRC, pursuant to 10 CFR 50.80, consent to the indirect transfer of the STP licenses held by Texas Genco that would be effected by the indirect transfer of control of Texas Genco's 44 percent undivided ownership interest in STP to NRG Energy. This action is being sought as a result of the agreement between NRG Energy and Texas Genco LLC, which indirectly owns 100 percent

of Texas Genco, for NRG Energy to acquire all of the outstanding equity of Texas Genco LLC from the current owners of Texas Genco LLC. The current owners are investment fund entities affiliated with the Blackstone Group, Hellman & Friedman LLC, Kohlberg Kravis Roberts & Co., L.P., and Texas Pacific Group (Investment Funds), and certain members of the Texas Genco LLC management.

In connection with the indirect transfer of control of Texas Genco's ownership interest in STP, indirect control over Texas Genco's corresponding interest in STPNOC will also be transferred. To the extent that the indirect transfer of control of Texas Genco's interest in STPNOC would constitute an indirect transfer of control of the licenses as held by STPNOC, NRC consent under 10 CFR 50.80 has also been requested.

Notice of the requests for approval and an opportunity for a hearing was published in the *Federal Register* on November 29, 2005 (70 FR 71561). No comments or hearing requests were received.

Under 10 CFR 50.80(a), no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, the NRC staff has determined that the proposed indirect transfer of control of Texas Genco to NRG Energy will not affect the qualifications of Texas Genco as holder of the STP licenses, and that the indirect transfer of the licenses as held by Texas Genco, to the extent effected by the indirect transfer of control of Texas Genco, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto. The NRC staff has further determined that, to the extent the proposed indirect transfer of control of Texas Genco would result in an indirect transfer of control of the STP licenses as held by STPNOC, the proposed indirect transfer of control of Texas Genco will not affect the qualifications of STPNOC to hold the STP licenses, and such

indirect transfer of control of the licenses as held by STPNOC is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The findings set forth above are supported by a safety evaluation dated January 12, 2006.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the application regarding the indirect license transfers related to the proposed acquisition is approved, subject to the following condition:

Should the indirect transfer of control of Texas Genco to NRG Energy not be completed by January 31, 2007, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated October 14, 2005, and the safety evaluation dated January 12, 2006, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from 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 do not have access to ADAMS or who encounter problems in 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.

Dated at Rockville, Maryland this 12th day of January, 2006.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Catherine Haney, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
RELATED TO INDIRECT LICENSE TRANSFERS RESULTING FROM
INDIRECT TRANSFER OF OWNERSHIP OF TEXAS GENCO, LP
SOUTH TEXAS PROJECT, UNITS 1 AND 2
FACILITY OPERATING LICENSE NOS. NPF-76 AND NPF-80
DOCKET NOS. 50-498 AND 50-499

1.0 INTRODUCTION

By application dated October 14, 2005, STP Nuclear Operating Company (STPNOC), acting on behalf of Texas Genco, LP (Texas Genco) and NRG Energy, Inc. (NRG Energy) (together, the applicants), requested that the United States Nuclear Regulatory Commission (NRC or the Commission), pursuant to 10 CFR 50.80, consent to the indirect license transfers that would be effected by the indirect transfer of control of Texas Genco's 44 percent undivided ownership interest in the South Texas Project Electric Generating Station, Units 1 and 2 (STP). This action is being sought as a result of the agreement between NRG Energy and Texas Genco LLC for NRG Energy to acquire all of the outstanding equity of Texas Genco LLC, which indirectly owns 100 percent of Texas Genco.

In connection with the indirect transfer of control of Texas Genco's ownership interest in STP, indirect control over Texas Genco's related interest in STPNOC, a not-for-profit Texas corporation that is the licensed operator of STP, will also be transferred. To the extent that the indirect transfer of control of Texas Genco's interest in STPNOC would constitute an indirect transfer of control of the licenses as held by STPNOC, NRC consent under 10 CFR 50.80 has also been requested.

2.0 BACKGROUND

Texas Genco Holdings, Inc. (TGN) owns 100 percent of Texas Genco through its 100 percent ownership of both Texas Genco GP, LLC and Texas Genco LP, LLC, with these two LLCs directly and jointly owning 100 percent of Texas Genco. Consequently, TGN does not own Texas Genco directly, but rather owns it indirectly and wholly through its 100 percent ownership of the two LLCs which directly own Texas Genco. One hundred percent of the capital stock of TGN is owned by Texas Genco LLC. Approximately 99 percent of Texas Genco LLC is owned and controlled in four equal parts by investment fund entities affiliated with the Blackstone Group, Hellman & Friedman LLC, Kohlberg Kravis Roberts & Co., L.P., and Texas Pacific Group (Investment Funds). The remaining approximately one percent of Texas Genco LLC is owned and controlled by certain members of the Texas Genco LLC management group (Management). Through its subsidiaries, Texas Genco LLC owns fossil-generating assets in addition to Texas Genco's 44 percent interest in STP. The application states that, under

Texas law, Texas Genco is a registered power generation company not subject to cost-based rate regulation. Texas Genco LLC currently owns and operates a total net generating capacity of approximately 11,000 megawatts, including more than 1,100 megawatts from its 44 percent interest in STP. The applicants state that, following the proposed transfer, Texas Genco will continue to sell its generation in the Electric Reliability Council of Texas (ERCOT) wholesale power markets.

NRG Energy is a wholesale power generation company which is publicly owned, widely held, and traded on the New York Stock Exchange. It's engaged primarily in the ownership and operation of electric power generation facilities, fuel trading and transactions, transportation services, and the marketing and trading of energy, capacity, and related products in the United States and internationally. NRG Energy had assets of approximately \$7.8 billion at year-end 2004. As of June 2005, NRG Energy owned interests in 50 power projects in five countries with an aggregate net electrical generating capacity of approximately 15,057 megawatts. Of its electric generating capacity, approximately 13,050 megawatts is located in the United States.

On September 30, 2005, NRG Energy, Texas Genco LLC, and the current owners of Texas Genco LLC entered into a definitive agreement for NRG Energy to acquire all outstanding equity of Texas Genco LLC. In the transaction, the current owners of Texas Genco LLC will transfer their membership units in Texas Genco LLC to NRG Energy and will receive a combination of cash, common stock, and preferred stock of NRG Energy. Additionally, NRG Energy will assume the outstanding debt of Texas Genco LLC. As a result of completion of this transaction, each of the four investment funds currently owning Texas Genco LLC will become owners of approximately 5 percent to 7 percent of the common stock of NRG Energy.

The combined companies plan to conduct a comprehensive refinancing at closing, expected to include the sale of approximately \$1.5 billion of new equity and an increase of approximately \$2.5 billion in total corporate debt. All corporate debt is expected to be incurred at the NRG Energy parent company level. It is expected that substantially all of NRG Energy's wholly-owned subsidiaries (including Texas Genco LLC and its subsidiaries) will guarantee the parent company debt and pledge their assets as collateral for the senior bank debt. In addition, it is anticipated that the assets of Texas Genco LLC and its wholly-owned subsidiaries will continue to be subject to a second priority lien to support obligations to the trading counterparts of NRG Energy and Texas Genco LLC.

The applicants state that the proposed indirect transfer of control of the STP licenses to the extent held by Texas Genco will not result in any change in the role of STPNOC as the licensed operator of STP and will not result in any changes to STPNOC's technical qualifications or in any physical or operational changes to STP.

3.0 REGULATORY FRAMEWORK

The applicants request the approval of the indirect transfer of the licenses of STP to the extent held by Texas Genco to NRG, pursuant to 10 CFR 50.80, "Transfer of licenses." Approval is also being requested with respect to the licenses held by

STPNOC to the extent deemed necessary by the NRC. Section 50.80(a) states “No license for a production or utilization facility, or any right thereunder, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall give its consent in writing.”

In addition, the requirements of 10 CFR 50.80(b) and (c) apply. Section 50.80(b) states that an applicant for a license transfer shall include as much of the information described in 10 CFR 50.33 and 50.34 of this part “with respect to the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the application were for an initial license....” Section 50.80(c) states that “the Commission will approve an application for the transfer of a license, if the Commission determines: (1) That the proposed transferee is qualified to be the holder of the license; and (2) That transfer of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.”

4.0 EVALUATION

4.1 Financial Qualifications

The regulation at 10 CFR 50.33(f) requires that, except for an electric utility applicant for a license to operate a utilization facility of the type described in 10 CFR 50.21(b) or 50.22, an applicant shall provide “information sufficient to demonstrate to the Commission the financial qualification of the applicant to carry out, in accordance with regulations in this chapter, the activities for which the permit or license is sought.”

Section 50.2 states that an electric utility is “any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority.”

The NRC staff finds that Texas Genco does not qualify as an “electric utility” as defined in Section 50.2 because it does not recover its costs of generating electricity through cost of service rate regulation. Thus, the NRC staff has determined that Texas Genco must meet the financial qualification requirements for a non-electric utility, pursuant to Section 50.33(f). Accordingly, to show that the indirect transfer of control of Texas Genco will not affect the financial qualifications of Texas Genco, i.e., that Texas Genco will remain qualified to hold the licenses, Texas Genco must provide: (1) information that demonstrates that it possesses or has reasonable assurance of obtaining the necessary funds to cover estimated operating costs for the period of the license; (2) estimates for total annual operating costs for each of the first five years of facility operation (post-transfer) and the source(s) of funds to cover these costs; and (3) information showing (a) the legal and financial relationships it has or proposes to have with its stockholders or owners; (b) their financial ability to meet any contractual obligation to the entity which they have incurred or proposed to incur; and (c) any other information considered necessary by the NRC to enable it to determine the applicant’s financial qualification.

Also, 10 CFR 50.33(k)(1) requires that Texas Genco provide information described in 10

CFR 50.75 demonstrating reasonable assurance that funds will be available to decommission STP. The effects of the indirect transfer of control of Texas Genco's STP licenses on Texas Genco's decommissioning funding assurance are discussed in Section 4.2 of this Safety Evaluation.

In accordance with 10 CFR 50.33(f), the applicants provided proprietary projected income statements for Texas Genco and Texas Genco LLC for the five-year period 2006 through 2010, reflecting estimated five-year revenues, costs, and net income for each of these years associated with Texas Genco's 44 percent ownership interest in STP. It should be noted that all information provided in the application as the summary income statement is proprietary (Any reference to the proprietary information is excluded from this Safety Evaluation as indicated by blank **bold** square brackets below).

TEXAS GENCO
PROJECTED INCOME STATEMENT
(In \$ millions)

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Total Revenue	[]	[]	[]	[]	
[]					
Expenses/Other Income	[]	[]	[]	[]	[]
Net Income	[]	[]	[]	[]	[]

The NRC Staff review indicates that the assumptions and supporting data supplied in the application as the basis for this summary projected income statement appear to be reasonable. Based upon the revenues and costs provided above, the NRC staff finds that Texas Genco's anticipated revenues from the STP units will exceed its anticipated operating and other costs during the five-year period. Furthermore, the NRC staff analysis of a potential reduction in total revenues of at least [] percent for the period 2006 through 2010 shows that the resultant net income still would be sufficient to cover estimated operating and other costs for the period and would be adequate to find Texas Genco to be financially qualified.

The NRC staff has also taken into consideration, as referenced in the application dated October 14, 2005, the support agreement with Texas Genco dated April 13, 2005, in which Texas Genco LLC committed to provide up to \$120 million in funding, if necessary, for Texas Genco to cover its annual pro rata share of the fixed operation and maintenance (O&M) costs for STP.¹ The applicants state that this agreement will remain in force, unchanged and unaffected by the proposed transaction, and will continue to provide funding in an amount that is adequate to fund approximately one year's worth of the average projected obligations of Texas Genco for its share of the fixed O&M costs of STP. The projected income statements of Texas Genco LLC from

¹Texas Genco's projected fixed annual O&M costs from 2006-2010 for its 44 percent share of STP range from \$117 million to \$122 million.

2006 through 2010, based on expected sales of capacity and energy from all of the approximately 11,000 megawatts of net generating capacity, provide reasonable assurance that Texas Genco LLC will have adequate funding to support Texas Genco on an ongoing basis and to provide funding pursuant to the \$120 million support agreement, if necessary to do so. The NRC staff finds that this support agreement between Texas Genco and Texas Genco LLC, which remains subject to a condition of the Order dated April 4, 2005, that approved Texas Genco LLC's acquisition of control of Texas Genco, will provide additional assurance that Texas Genco will remain financially qualified following the indirect transfer of control proposed in the application dated October 14, 2005.

Accordingly, based upon its review of information stated in the application as cited herein, the NRC staff finds that Texas Genco has reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the STP licenses, and thus will continue to be financially qualified to hold these licenses, notwithstanding the indirect transfer of control of Texas Genco and of the STP licenses as held by Texas Genco.

4.2 Decommissioning Funding Assurance

The NRC has determined that the requirement to provide reasonable assurance of decommissioning funding is necessary to ensure the adequate protection of public health and safety.

The applicants state that Texas Genco will continue to provide financial assurance for decommissioning funding in accordance with 10 CFR 50.75, using the current external sinking fund method with ongoing receipt of non-bypassable charges to ratepayers. The applicants also state that Texas Genco will continue to maintain the decommissioning trust funds that have been established to fund decontamination and decommissioning relative to its 44 percent undivided ownership interest in STP and will continue to maintain its external sinking funds segregated from its assets and outside its administrative control.

In particular, the applicants note that the regulated electric distribution company owned by CenterPoint Energy, a previous owner of STP, or its successor, will continue to collect from its electric utility ratepayers the costs associated with the decommissioning of a 30.8 percent interest in STP pursuant to a non-bypassable charge and will transfer all such funds to Texas Genco or to the STP decommissioning trust for the benefit of Texas Genco. Texas Genco, in turn, will deposit any such amounts received for this purpose into the STP decommissioning trust. These funding arrangements were specifically approved by the Public Utility Commission of Texas (PUCT) in its Order, Docket 21956 (March 15, 2001). Similarly, AEP Texas Central Company (TCC) will continue to collect from its electric utility ratepayers the costs associated with decommissioning the facility relative to Texas Genco's 13.2 percent interest in STP previously owned by TCC. TCC will provide such funds for deposit in Texas Genco's

STP decommissioning trust funds. The applicants state that these arrangements

assure that Texas Genco will have the total amount of funds estimated to be needed for decommissioning its share of STP.

In STPNOC's 2005 biennial report to the NRC dated March 30, 2005, regarding the status of Texas Genco's share of its decommissioning trust funds for both STP units, STPNOC provided the NRC staff with reasonable assurance of adequate decommissioning funding for each unit.

The applicants state that Texas Genco does not anticipate any amendments to the Texas Genco decommissioning master trust agreements in connection with the proposed indirect transfer of control and that existing license conditions governing these trust agreements will remain in effect and unchanged.

The NRC staff notes that Texas Genco is currently subject to certain license transfer conditions, relating to Texas Genco's decommissioning trusts, imposed in connection with the Order Approving Transfer of Licenses and Conforming Amendments dated December 20, 2001.

Such conditions, which are now part of the STP licenses, are not being amended and will continue to be in effect following the indirect transfer of control.

In summary, the NRC staff finds that the indirect transfer of control of Texas Genco to NRG Energy will not affect the decommissioning funding arrangements of Texas Genco or the reasonable assurance of adequate decommissioning funding for STP.

4.3 Antitrust Review

The Atomic Energy Act of 1954, as amended (AEA), does not require or authorize antitrust reviews of post-operating license transfer applications. *Kansas Gas and Electric Co., et al.* (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 NRC 441 (1999). Therefore, since the application postdates the issuance of the STP operating licenses, no antitrust review is required or authorized.

4.4 Foreign Ownership, Control, or Domination

Section 103d of the AEA prohibits the NRC from issuing a license for a nuclear power plant to "any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government." The NRC regulation at 10 CFR 50.38 contains language to implement this prohibition.

The applicants state that the proposed transaction would not result in Texas Genco's being owned, controlled, or dominated by any alien, foreign corporation, or foreign government. As noted earlier, NRG Energy is a publicly owned company that is widely held with its securities listed and traded on the New York Stock Exchange. NRG Energy is a Delaware corporation located at 211 Carnegie Center, Princeton, New Jersey,

which is the business address for the current members of its Board of Directors and for its executive officers, all of whom are listed in the application dated October 14, 2005. The applicants state that all 10 current members of the NRG Energy Board of Directors are U.S. citizens except for one, and she is identified as a citizen of the United Kingdom who is a permanent resident of the United States. All 11 of its current executive officers are U.S. citizens.

NRG Energy also anticipates that, in connection with the proposed transaction, it may name additional directors of NRG Energy effective at the time of the proposed indirect transfer of control of Texas Genco. The applicants state that, if NRG Energy does this, STPNOC will provide additional information to the NRC regarding these individuals, all of whom will be U.S. citizens.

Also, NRG Energy anticipates that management from the Texas Genco LLC organization will be integrated with NRG Energy management into the combined operations of the two companies. If any additional individuals are identified that will hold executive officer positions with NRG Energy at the time of the proposed transfer, STPNOC will provide additional information regarding these individuals, all of whom will be U.S. citizens.

The Securities and Exchange Act of 1934, as amended, 15 U.S.C. 78m(d), requires that a person or entity that owns or controls more than 5 percent of the securities of a company must file notice with the Securities and Exchange Commission (SEC). The applicants state that, based upon SEC filings, the applicants have found that Orbis Management Ltd and Orbis Asset Management Ltd (Orbis), which are associated Bermuda companies with principal offices in Bermuda and the United Kingdom, filed a statement indicating that as of December 31, 2004, Orbis owned approximately 5.8 percent of NRG Energy shares outstanding at that time. Orbis does not have any representation on the NRG Energy Board of Directors, and its SEC filing specifically certifies that it did not acquire its shares to change or influence the control of NRG Energy. In addition, the applicants identified another set of filings indicating that Steven A. Cohen, a U.S. citizen, and three U.S. companies (S.A.C. Capital Advisors, LLC, S.A.C. Capital Management, LLC, and Sigma Capital Management) share investment and voting power with respect to securities held by four companies organized in Anguilla, British West Indies (S.A.C. Capital Associates, LLC, S.A.C. Arbitrage Fund, LLC, S.A.C. MultiQuant Fund, LLC, and Sigma Capital Associates, LLC). As of its filing date, these entities share beneficial ownership of approximately 7 percent of outstanding NRG Energy shares. These entities do not have any representation on the NRG Energy Board of Directors, and its SEC filings specifically certify that these shares were not acquired to change or influence the control of NRG Energy. The applicants also state that NRG Energy has not identified any other foreign interests holding ownership interests and/or voting rights for more than 5 percent of its outstanding shares.

The applicants submit that, while all the current directors and executive officers of NRG Energy are U.S. citizens, with the exception of one director (a United Kingdom citizen), a single director is not able to exercise control over NRG Energy. But for the avoidance of doubt, the NRG Energy Board of Directors plans to establish a nuclear oversight committee made up solely of U.S. citizens, and the Board plans to delegate to this

committee the decision-making authority for all decisions that may affect the safety of any NRC-licensed facilities owned or controlled by NRG Energy. The applicants provided a copy of the charter of this committee, which the NRC staff has reviewed.

Texas Genco LLC is a Delaware limited liability company, with Texas as its principal place of business, and its address is 1301 McKinney, Suite 2200, Houston, Texas. Texas Genco (the NRC licensee) is a limited partnership, with Texas also as its principal place of business and with the same address as Texas Genco LLC. The applicants provided the names, business addresses, and citizenship of the three directors and three executive officers of Texas Genco LLC, with each of them being both a director and an executive officer, and all U.S. citizens. Texas Genco is a limited partnership and does not have any directors or executive officers. Control of Texas Genco is exercised by and through the President of its General Partner, Texas Genco GP, LLC, who will be David Crane following the proposed transfer. Mr. Crane is also one of the directors and executive officers of Texas Genco LLC and is a U.S. citizen.

The applicants also state that NRG Energy anticipates management from the existing Texas Genco LLC organization will be integrated with NRG Energy personnel into the combined operations of the two companies. STPNOC represents that, if other individuals are identified to hold executive officer positions with Texas Genco LLC or its subsidiaries at the time of the proposed transfer, it will provide supplemental information regarding these individuals to the NRC, and that any such additional officers will be U.S. citizens.

Based upon the information provided above, the NRC staff does not know or have reason to believe that the proposed acquisition of Texas Genco LLC by NRG Energy and the resultant indirect transfer of control of the STP licenses to the extent held by Texas Genco would result in any foreign ownership, control, or domination of any of these three entities.

4.5 Nuclear Insurance and Indemnity

According to the applicants, the proposed indirect transfer of control of the licenses would not affect the existing Price-Anderson indemnity agreement and nuclear insurance for STP. The NRC staff has no reason to believe that the proposed acquisition and the resulting indirect license transfers and indirect control of Texas Genco will affect either the existing Price-Anderson indemnity agreement for STP, under which Texas Genco is covered as a licensee, or the insurance and indemnity coverage for Texas Genco as required under Section 170 of the AEA, 10 CFR Part 140, and 10 CFR 50.54(w). Also, the NRC staff has no reason to believe that the proposed acquisition and resulting transfers will affect the ability of Texas Genco to meet its financial obligations for its pro rata share of obligations for retrospective premiums for STP. Therefore, in consideration of the foregoing, the NRC staff concludes that the indirect control of Texas Genco will not affect its nuclear insurance and indemnity coverage and its ability to meet its nuclear insurance obligations.

4.6 Technical Qualifications

Texas Genco does not hold the authority to operate STP under the licenses. Therefore, there is no issue concerning the impact of the indirect transfer of control of Texas Genco on its technical qualifications. With respect to STPNOC, the licensed operator, the proposed indirect transfer of control of Texas Genco will not affect the technical qualifications of STPNOC, according to the applicants. Also, there will be no physical changes to STP or changes in operations, and no changes to STPNOC senior management.

Based on the above, the NRC staff finds that the proposed indirect transfer of control of Texas Genco does not raise any technical qualifications issues.

5.0 CONCLUSION

In view of the foregoing, the NRC staff concludes that the proposed indirect transfer of control of Texas Genco as described herein will not affect the qualifications of Texas Genco as holder of the STP licenses, and that the indirect transfer of control of the licenses as held by Texas Genco, to the extent effected by the indirect transfer of control of Texas Genco, is otherwise consistent with the applicable provisions of the laws, regulations, and orders issued by the NRC pursuant thereto. The NRC staff also concludes that, to the extent the proposed transaction involving the indirect transfer of control of Texas Genco's ownership in STP results in an indirect transfer of control of the STP licenses as held by STPNOC, the proposed transaction will not affect STPNOC's qualifications to hold the STP licenses to the extent now held by STPNOC, and that to the extent an indirect transfer of control of the licenses as held by STPNOC is effected, such indirect transfer is otherwise consistent with applicable provisions of the law, regulations, and orders issued by the Commission pursuant thereto.

Principal Contributor: A. McKeigney

Date: January 12, 2006

South Texas Project, Units 1 & 2

cc:

Senior Resident Inspector
U.S. Nuclear Regulatory Commission
P. O. Box 910
Bay City, TX 77414

C. Kirksey/C. M. Canady
City of Austin
Electric Utility Department
721 Barton Springs Road
Austin, TX 78704

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

INPO
Records Center
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

Jack A. Fusco/Michael A. Reed
Texas Genco, LP
12301 Kurland Drive
Houston, TX 77034

Judge, Matagorda County
Matagorda County Courthouse
1700 Seventh Street
Bay City, TX 77414

A. H. Gutterman, Esq.
Morgan, Lewis & Bockius
1111 Pennsylvania Avenue, NW
Washington, DC 20004

E. D. Halpin
Vice President Oversight
STP Nuclear Operating Company
P. O. Box 289
Wadsworth, TX 77483

S. M. Head, Manager, Licensing
STP Nuclear Operating Company
P. O. Box 289, Mail Code: N5014
Wadsworth, TX 77483

Environmental and Natural Resources
Policy Director
P. O. Box 12428
Austin, TX 78711-3189

Jon C. Wood
Cox, Smith, & Matthews
112 East Pecan, Suite 1800
San Antonio, TX 78205

Director
Division of Compliance & Inspection
Bureau of Radiation Control
Texas Department of State Health Services
1100 West 49th Street
Austin, TX 78756

Brian Almon
Public Utility Commission
William B. Travis Building
P. O. Box 13326
1701 North Congress Avenue
Austin, TX 78701-3326

Susan M. Jablonski
Office of Permitting, Remediation
and Registration
Texas Commission on
Environmental Quality
MC-122
P.O. Box 13087
Austin, TX 78711-3087

June 2005

South Texas Project, Units 1 & 2

-2-

Mr. Terry Parks, Chief Inspector
Texas Department of Licensing
and Regulation
Boiler Division
P. O. Box 12157
Austin, TX 78711

Mr. Ted Enos
4200 South Hulen
Suite 630
Ft. Worth, Texas 76109