



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

January 29, 2010

Mr. Edward D. Halpin  
President and Chief Executive Officer  
STP Nuclear Operating Company  
South Texas Project  
P. O. Box 289  
Wadsworth, TX 77483

SUBJECT: WITHDRAWAL OF FUNDS FROM NRG SOUTH TEXAS NUCLEAR  
DECOMMISSIONING TRUST SUBACCOUNTS (TAC NOS. ME0938 AND  
ME0939)

Dear Mr. Halpin:

By letter dated December 30, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML100080191), STP Nuclear Operating Company (STPNOC, the licensee) informed the U.S. Nuclear Regulatory Commission (NRC) that the licensee intends to make a withdrawal of funds from the NRG South Texas Nuclear Decommissioning Trust Subaccounts. Section 2.04(d) of the trust agreement, dated September 15, 2009 (ADAMS Accession No. ML092740161), requires that,

Notice to NRC. Except for disbursements for Administrative Costs, no disbursements or payments from the Funds shall be made by the Trustee unless the Trustee has first provided thirty days prior notice...

We note that Section 2.04(d) states that the Trustee provides the notice, not STPNOC. The Trustee was not included on the distribution list of your letters dated December 30, 2009, and January 21, 2010.

By letter dated January 21, 2010 (ADAMS Accession No. ML100280931), the licensee stated that the source of the funds to be withdrawn is collections received from the ratepayers. The NRC staff has reviewed your letters and determined that there is insufficient information to determine whether the funds fall outside the NRC's jurisdiction. Additional specific information on the source of funds put into the Subaccount for pre-shutdown large component disposal costs is necessary to determine whether the proposed action is consistent with NRC regulations. Therefore, NRC requests additional information pursuant to the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR), paragraph 50.75(e)(2), which states,

The NRC reserves the right to take the following steps in order to ensure a licensee's adequate accumulation of decommissioning funds: review, as needed, the rate of accumulation of decommissioning funds; and, either independently or in cooperation with the FERC [Federal Energy Regulatory Commission] and the licensee's State PUC [Public Utility Commission], take additional actions as appropriate on a case-by-case basis, including modification of a licensee's schedule for the accumulation of decommissioning funds.

Please provide the information requested below.

1. Were any funds transferred from NRC-required decommissioning funds to the subaccount for pre-shutdown large component disposal costs? If so, please provide documentation indicating the amount(s) transferred.
2. The STPNOC letter dated January 21, 2010, stated that the subaccounts be created to "allow NRG South Texas to accumulate segregated funds that can be used to pay for pre-shutdown disposal of [large] components," and that the subaccounts will be funded from ratepayer collections "on a priority basis, until the subaccounts are fully funded." Will the schedule of annual amounts remaining to be collected for items in 10 CFR 50.75(b) and (c), as reported in the decommissioning finding status report dated March 31, 2009 (ADAMS Accession No. ML090970280), be changed as to timing or amount as a result of placing funds into the large component disposal cost subaccount? If so, please describe the changes to the timing and amounts remaining to be collected.
3. Please provide copies of the contracts that are relied on to provide financial assurance for decommissioning under the provisions of 10 CFR 50.75(e)(1)(v). Please include the schedule of amounts to be collected for NRC-required decommissioning funds, as authorized by the Public Utilities Commission of Texas.

Based on the above, the NRC objects to the withdrawal until such time as STPNOC provides information to determine whether the funds fall outside the NRC's jurisdiction in accordance with 10 CFR 50.75, and the NRC has sufficient opportunity to review the submitted information to conclude that the proposed action is acceptable. This matter was discussed with Mr. Wayne Harrison of your staff on January 29, 2010.

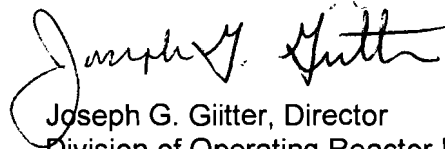
If you have any questions, please contact Mohan Thadani, Senior Project Manager, at (301) 415-1476 or via e-mail at [mohan.thadani@nrc.gov](mailto:mohan.thadani@nrc.gov).

E. Halpin

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In accordance with Office Instruction ADM-200, "Delegation of Signature Authority," the Director, Office of Nuclear Reactor Regulation, delegates authority for issuing this objection to the proposed action to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph G. Giitter". The signature is fluid and cursive, with a large initial "J" and a stylized "G".

Joseph G. Giitter, Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

cc: Distribution via Listserv

The Bank of New York Mellon  
One Mellon Bank Center  
Pittsburgh, PA 15258  
Attention: Trust Officer

Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

E. Halpin

- 3 -

In accordance with Office Instruction ADM-200, "Delegation of Signature Authority," the Director, Office of Nuclear Reactor Regulation, delegates authority for issuing this objection to the proposed action to the undersigned.

Sincerely,

*/ra/*

Joseph G. Giitter, Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

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**ADAMS Accession No. ML100270073**

OFFICE	NRR/DORL/LPL4/PM	NRR/DORL/LPL4/LA	OGC	NRR/DORL/LPL4/BC
NAME	MThadani	JBurkhardt	BMizuno	MMarkley
DATE	1/29/10	1/27/10	1/29/10	1/29/10
OFFICE	NRR/DPR/D	NRR/DORL/D	NRR/DORL/LPL4/PM	
NAME	TMcGinty	JGiitter	MThadani	
DATE	1/29/10	1/29/10	1/29/10	

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