



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

July 6, 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: SOUTH TEXAS PROJECT, UNITS 1 AND 2 – NOTICE OF PLANNED
WITHDRAWAL OF FUNDS FROM NRG SOUTH TEXAS NUCLEAR
DECOMMISSIONING TRUST FUND SUBACCOUNTS (TAC NOS. ME3296
AND ME3297)

Dear Mr. Halpin:

By letter dated December 30, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML100080191), the STP Nuclear Operating Company (STPNOC, the licensee), acting on behalf of NRG South Texas LP (NRG South Texas), provided the Nuclear Regulatory Commission (NRC) a written 30-day notification (Notice) to withdraw funds from its nuclear Decommissioning Trust Fund (DTF) large component sub-account. The Notice stated that the licensee planned to withdraw funds from the large component disposal subaccounts in the NRG South Texas nuclear DTF to fund large component disposal activities.

By letter dated January 29, 2010 (ADAMS Accession No. ML100270073), the NRC objected to the withdrawal until such time as STPNOC provides information to NRC to determine whether the funds fall outside of the NRC's jurisdiction in accordance with Section 50.75, "Reporting and recordkeeping for decommissioning planning," of Title 10 of the *Code of Federal Regulations* (10 CFR), and the NRC has sufficient opportunity to review the submitted information to conclude that the proposed action is acceptable.

The licensee supplemented its information by letters dated January 21 and February 11, 2010 (ADAMS Accession Nos. ML100280931 and ML100501159, respectively). Based on the evaluation of the information provided by the licensee, Section 2.04(d) of the NRG South Texas Trust Agreement, and the Orders of the Public Utility Commission of Texas, the NRC staff has concluded that, at this time, it has no objection to the licensee's proposed action.

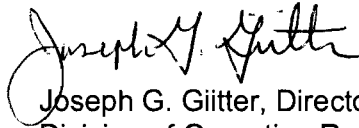
Pursuant to the NRG South Texas Trust Agreement, upon initial notification by the NRG South Texas DTF trustee to the NRC of the intent to withdraw funds, the NRC will have no objection to withdrawals on the NRG South Texas's DTF subaccount for large component disposal, for the year 2010.

E. Halpin

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The NRC staff's safety evaluation is enclosed. If you have any questions, please contact the NRC Senior Project Manager, Mr. Mohan C. Thadani, at (301) 415-1476 or via e-mail at mohan.thadani@nrc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph G. Giitter". The signature is fluid and cursive, with the first name "Joseph" and last name "Giitter" clearly distinguishable.

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

Docket Nos. 50-498 and 50-499

Enclosure:
As stated

cc: Distribution via Listserv



UNITED STATES
NUCLEAR REGULATORY COMMISSION
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SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION
WITHDRAWAL OF FUNDS FROM DECOMMISSIONING TRUST FUND SUBACCOUNTS
FACILITY OPERATING LICENSE NOS. NPF-76 AND NPF-80
STP NUCLEAR OPERATING COMPANY, ET AL.
SOUTH TEXAS PROJECT, UNITS 1 AND 2
DOCKET NOS. 50-498 AND 50-499

1.0 INTRODUCTION

By letter dated December 30, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML100080191), as supplemented by letters dated January 21 and February 11, 2010 (ADAMS Accession Nos. ML100280931 and ML100501159, respectively), STP Nuclear Operating Company (STPNOC, the licensee), acting on behalf of NRG South Texas LP (NRG South Texas), provided a written 30-day notification (Notice) and supporting documentation to the Nuclear Regulatory Commission (NRC) informing the NRC that it planned to withdraw funds from the large component disposal subaccounts in the NRG South Texas nuclear Decommissioning Trust Funds (DTFs) to fund large component disposal activities.

2.0 BACKGROUND

By Order dated October 10, 2008, the Public Utility Commission of Texas (PUCT) (PUCT Docket No. 35772), authorized NRG South Texas to create a separate subaccount within the NRG South Texas DTFs for the collection of funds designated for basic radiological decommissioning costs pursuant to Section 50.75, "Reporting and recordkeeping for decommission planning," of Title 10 of the *Code of Federal Regulations* (10 CFR). Pursuant to the same Order, the PUCT authorized the creation and funding of a subaccount within the NRG South Texas DTFs designated for the spent fuel management costs associated with decommissioning activities. According to a supplement of the Notice provided by STPNOC, funding levels for the spent fuel management subaccounts were set at approximately 27.5 percent of PUCT's authorized collections for the South Texas Project, (STP) Unit 1 subaccount and 24.3 percent of the collections for the STP, Unit 2 subaccount. The remaining amounts for each STP DTF, approximately 72.5 percent and 75.7 percent, of the authorized collections for STP, Units 1 and 2, respectively, were designated for the basic radiological decommissioning subaccounts.

Enclosure

By Order dated July 13, 2009, the PUCT authorized the creation of additional subaccounts designated for large component disposal for STP, Units 1 and 2. According to supplements to Notice provided by STPNOC, all current collections from ratepayers are being deposited, on a priority basis, into the large component subaccounts until such time that NRG South Texas's 44 percent share of the estimated large component disposal costs for STP, Units 1 and 2 are fully funded, which is estimated to be \$8,217,033 and \$7,977,524, for STP, Units 1 and 2, respectively.

In its submittal dated December 30, 2009, STPNOC provided for the NRC staff review, its Notice of planned withdrawal of approximately \$416,000 from the large component disposal subaccounts in the NRG South Texas DTFs for the purpose of large component disposal activity. In its supplemental letter dated January 21, 2010, STPNOC provided to the NRC a detailed description of the planned action.

The NRC staff reviewed the licensee's submittals and, on January 29, 2010, the NRC staff issued a Notification of Objection (ADAMS Accession No. ML100270073) to the STPNOC's plans for withdrawal of DTF subaccount funds until such time as STPNOC could provide sufficient information to the NRC staff to determine whether the funds fell outside the NRC's jurisdiction in accordance with 10 CFR 50.75, and the NRC had sufficient opportunity to review the submitted information to conclude that the proposed action was acceptable.

In its supplement dated February 11, 2010, STPNOC provided the NRC staff additional information which provided the detailed information regarding the planned action, as well as supporting documentation.

3.0 REGULATORY EVALUATION

This safety evaluation summarizes the NRC staff's review of the STPNOC Notice and its supplements for planned withdrawal of funds from NRG South Texas's nuclear DTF subaccounts and the authorization for NRG South Texas to proceed with the planned withdrawal. Therefore, the governing regulation for this review of the Notice and planned activity is 10 CFR 50.75(h)(2).

Section 50.75(h)(2) of 10 CFR states, in part, that:

...except for withdrawals being made under §50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given the Director, Office of Nuclear Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment.

In addition, the NRC staff reviewed the PUCT Order dated October 10, 2008 (PUCT Docket No. 35772), concerning the creation and funding of separate DTF subaccounts for spent fuel management costs and basic radiological decommissioning costs, the PUCT Order dated July 13, 2009 (PUCT Docket No. 36796), concerning the creation and priority funding of an additional decommissioning trust fund subaccount designated for large component disposal, and Section 2.04(d) of the NRG South Texas Trust Agreement, dated September 15, 2009.

4.0 TECHNICAL EVALUATION

The NRC staff reviewed the Notice and information provided in the supplements to the Notice. The review showed that the funds deposited in the NRG South Texas DTF subaccounts designated for large component disposal are segregated from funds deposited in NRG South Texas DTF subaccounts designated for basic radiological decommissioning pursuant to 10 CFR 50.75, and are funded with ratepayer collections. No funds held for decommissioning under the provisions of 10 CFR 50.75 were used for the funding of these subaccounts. Therefore, funds within the large component subaccounts do not fall under the jurisdiction of NRC.

Furthermore, STPNOC states that the DTFs for NRG South Texas's 44 percent interest in STP, Units 1 and 2 satisfy the "prepayment" method of decommissioning funding assurance pursuant to 10 CFR 50.75(e)(1)(i), when earnings are credited for the remaining life of the units under existing licenses and an assumed 7-year period for decontamination. Based on the NRC staff's independent analysis of this scenario, the NRC staff concludes that NRG South Texas does satisfy the "prepayment" method requirements for a 44 percent interest in STP, Units 1 and 2; therefore, no further contributions to the basic radiological decommissioning subaccounts are necessary, at this time, to meet the NRC's decommissioning funding assurance requirement.

Additionally, STPNOC states that once each large component disposal subaccount is fully funded, the PUCT-authorized ratepayer collections will once again be deposited into the applicable spent fuel management subaccount and basic radiological decommissioning subaccount in the previously set funding levels.

5.0 CONCLUSION

Based on the evaluation of the Notice and subsequent supplements to the Notice, Section 2.04(d) of the NRG South Texas Trust Agreement, and the relevant Orders of the PUCT, the NRC staff has determined that, at this time, there is no objection to this action.

Pursuant to the NRG South Texas Trust Agreement, upon initial notification by the NRG South Texas DTF Trustee to the NRC staff of the intent to withdraw funds, the NRC would have no objection to withdrawals on the NRG South Texas DTF subaccount for large component disposal for the year 2010.

Principal Contributor: S. Harwell

Date: July 6, 2010

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The NRC staff's safety evaluation is enclosed. If you have any questions, please contact the NRC Senior Project Manager, Mr. Mohan C. Thadani, at (301) 415-1476 or via e-mail at mohan.thadani@nrc.gov.

Sincerely,

/RA/

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

Docket Nos. 50-498 and 50-499

Enclosure:
As stated

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ADAMS Accession No. ML101580250

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NAME	MThadani	JBurkhardt	RCarlson*	BMizuno NLO	MMarkley	TMcGinty	JGiitter
DATE	6/30/10	6/23/10	4/29/10	6/30/10	7/1/10	7/2/10	7/6/10

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