

PROPRIETARY



Nuclear Innovation
North America LLC
4000 Avenue F, Suite A
Bay City, Texas 77414

June 23, 2011
U7-C-NINA-NRC-110085
10 CFR 2.390

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

South Texas Project
Units 3 and 4
Docket Nos. 52-012 and 52-013
Proposed Update to COLA Part 1 Information

This letter provides a proposed update related to South Texas Project Units 3 & 4 (STP 3 & 4) Combined License Application (COLA) Part 1, General and Financial Information. The attachments to this letter contain planned revisions to COLA Part 1, Part 2 Tier 2 Chapter 1.4 and a new Part 2 Tier 2 Chapter 1 Appendix 1D. This material will be incorporated into COLA Revision 6, scheduled to be submitted to the NRC in the third quarter of this year.

The proposed change to COLA Part 1 is provided in both a proprietary and non-proprietary version. When separated from the proprietary material, this letter is not proprietary.

There are no commitments in this letter.

If there are any questions regarding this submittal, please contact me at (361) 972-7136, or Bill Mookhoek at (361) 972-7274.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 6/23/11

Scott Head
Manager, Regulatory Affairs
South Texas Project Units 3 & 4

- Attachments:
1. Proprietary Affidavit
 2. COLA Part 1 – Proprietary
 3. COLA Part 1 – Non-proprietary
 4. COLA Part 2 Tier 2 Chapter 1.4
 5. COLA Part 2 Tier 2 Chapter 1 Appendix 1D

STI 32890308

DO91
NRC

cc: w/o attachment except*
(paper copy)

Director, Office of New Reactors
U. S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Regional Administrator, Region IV
U. S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, Texas 76011-8064

Kathy C. Perkins, RN, MBA
Assistant Commissioner
Division for Regulatory Services
Texas Department of State Health Services
P. O. Box 149347
Austin, Texas 78714-9347

Alice Hamilton Rogers, P.E.
Inspection Unit Manager
Texas Department of State Health Services
P. O. Box 149347
Austin, Texas 78714-9347

*Steven P. Frantz, Esquire
A. H. Gutterman, Esquire
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave. NW
Washington D.C. 20004

*Stacy Joseph
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852

(electronic copy)

*George F. Wunder
* Stacy Joseph
Charles Casto
U. S. Nuclear Regulatory Commission

Jamey Seely
Nuclear Innovation North America

Richard Peña
Kevin Pollo
L. D. Blaylock
CPS Energy

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)		
)		
Nuclear Innovation North America LLC)	Docket No.	52-012
)		52-013
South Texas Project)		
Units 3 and 4)		

AFFIRMATION

I, Scott Head, being duly sworn, hereby depose and say that I am Manager, Regulatory Affairs, of the South Texas Project Units 3 & 4 (STP 3&4); that I am duly authorized to sign and file with the Nuclear Regulatory Commission (NRC) this affidavit on behalf of Nuclear Innovation North America LLC (NINA); and state:

1. The accompanying Attachment 2 includes information specifically considered to be proprietary to NINA that should be held in confidence by the NRC and withheld from public disclosure pursuant to 10 CFR 2.390(a)(4), because:
 - i. This information is and has been withheld in confidence by NINA.
 - ii. This information is of a type that is customarily held in confidence by NINA and there is a rational basis for doing so because the information contains sensitive schedule information.
 - iii. This information is being submitted to the NRC voluntarily and in confidence.
 - iv. This information is not available in public sources and could not be gathered readily from other publicly available information.
 - v. Public disclosure of this information would create substantial harm to the competitive position of NINA by providing computer input information.
2. The basis for this claim of competitive harm is that the use of the information by a competitor would reduce the competitor's expenditure of resources, or otherwise improve its competitive position, in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
3. Information proprietary to NINA included in the attachment to this letter is marked on each affected page with a proprietary information statement at the top of the page.

Accordingly, NINA requests that Attachment 2 accompanied by this affidavit and identified as described above be withheld from public disclosure pursuant to 10 CFR 2.390.



Scott Head
Manager, Regulatory Affairs

STATE OF TEXAS)
)
COUNTY OF MATAGORDA)

Subscribed and sworn to before me, a Notary Public in and for the State of Texas,
this 23 day of June, 2011.



Notary Public in and for the
State of Texas

STP 3 & 4**General and Financial Information****Part 1 General and Financial Information****1.0 Introduction**

Effective January 28, 2009, STP 3 & 4 Investments LLC changed its name to Nuclear Innovation North America LLC (NINA), NRG South Texas 3 LLC changed its name to NINA Texas 3 LLC (NINA 3), and NRG South Texas 4 LLC changed its name to NINA Texas 4 LLC (NINA 4).

This Combined License Application (COLA) is submitted by NINA on behalf of itself, the STP Nuclear Operating Company (STPNOC), NINA 3, NINA 4, and the City of San Antonio, Texas, acting by and through the City Public Service Board (CPS Energy), for the construction and operation of two nuclear powered generating plants designated as South Texas Project Units 3 & 4 (STP 3 & 4). In addition, special nuclear material licenses, by-product material licenses, and source material licenses as required for construction and operation are requested. NINA will be the lead applicant and lead licensee responsible for design and construction of each unit until the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license (COL) under 10 CFR 52.103(c), at which point STPNOC will be the lead licensee responsible for operations.

STP 3 & 4 will each utilize the NRC-Certified Advanced Boiling Water Reactor (ABWR) light water reactor design. This COLA presents descriptions and analyses of the station design, and incorporates by reference Appendix A to 10 CFR Part 52 as required by Section III.B of that Appendix.

The Application has been divided into parts as follows:

Part 1 - General and Financial Information

Part 2 - Final Safety Analysis Report

Part 3 - Environmental Report

Part 4 - Plant-Specific Technical Specifications

Part 5 - Emergency Plan

Part 6 - Site Redress Plan

Part 7 - Generic DCD Departures Report

Part 8 - Security Plans (under separate cover)

Part 9 - Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC)

Part 10 - Proprietary Information

Part 11 - Mitigative Strategies Report 10 CFR 52.80(d)

STP 3 & 4**General and Financial Information**

Two complete COLAs were submitted. One included proprietary and security sensitive information that is subject to a request for withholding from public dissemination. The other has such information redacted and is available for public dissemination.

Subsequent COLA revisions will submit only the COLA Parts impacted by the current revision. The unaffected COLA Parts will remain valid at their last submittal revision level.

Proprietary information shall be marked in the COLA file as follows:

The beginning of the proprietary information shall be marked with the designation '[s#]' and the designation '[e#]' at the end of the proprietary information. The "#" shall be a number between 1 and 7, denoting the reason the information is being requested to be withheld from public disclosure as proprietary. The number designation is in accordance with NRC Regulatory Issue Summary 2004-11: "Supporting Information Associated with Requests for Withholding Proprietary Information."

The number designators indicating the reason the information is being requested to be withheld from public disclosure as proprietary, are as follows:

- (1) The information is considered Security Sensitive. (Short title: Security Sensitive)
- (2) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) whose use by any of the submitter's competitors, without a license from the submitter, would constitute a competitive economic disadvantage to the submitter. (Short Title: Distinguishing Aspects of a Process)
- (3) The information consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), and the application of the data secures a competitive economic advantage, as described more fully in the affidavit. (Short Title: Supporting Data Relative to a Process)
- (4) Use by a competitor of the information would reduce the competitor's expenditure of resources, or improve its competitive position, in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product. (Short Title: Competitive Advantage)
- (5) The information reveals cost or price information, production capacities, budget levels, or commercial strategies of the submitter or customers or suppliers. (Short Title: Financial and Commercial)
- (6) The information reveals aspects of privately funded development plans or programs of commercial value to the submitter or owner of the information. (Short Title: Development Plans)
- (7) The information consists of patentable ideas. (Short Title: Patentable Ideas)

STP 3 & 4**General and Financial Information**

The number will serve as notification to the NRC of the reason the information is being requested to be withheld from public disclosure.

1.1 License Actions Requested

The purpose of this COLA is to obtain NRC approval to construct and operate two nuclear powered generating plants. The plants will be located at the existing South Texas Project Electric Generating Station in Matagorda County, Texas.

In support of this objective, STPNOC requests the following license actions:

- License NINA, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended (the Act), and 10 CFR Part 52 to construct, possess, and use South Texas Project Unit 3 at the designated location in Matagorda County, Texas. It is requested that the license contains a provisions that includes the applicable licenses under 10 CFR Parts ~~30, 40, and~~ 70 to receive, possess, and use at any time such quantities of source, byproduct and special nuclear material as needed to construct the utilization facility and transition the utilization facility to STPNOC for operation on the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103(c).
- License STPNOC pursuant to Section 103 of the Act and 10 CFR Part 52 to possess, use, and operate South Texas Project Unit 3 at the designated location in Matagorda County, Texas, beginning on the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103 (c). It is requested that the term of the license be for a period of 40 years from the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103(c), and contains a provisions that includes the applicable licenses under 10 CFR Parts ~~30, 40, and~~ 70 to receive, possess, and use at any time such quantities of source, byproduct, and special nuclear material as needed to operate the utilization facility.
- License NINA 3 and CPS Energy pursuant to Section 103 of the Act and 10 CFR Part 52 to possess South Texas Project Unit 3 and own a 92.375% and a 7.625% undivided interest, respectively, therein, at the designated location in Matagorda County, Texas. It is requested that the term of the license be for a period of 40 years from the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103(c).
- License NINA pursuant to Section 103 of the Act and 10 CFR Part 52 to construct, possess, and use South Texas Project Unit 4 at the designated location in Matagorda County, Texas. It is requested that the license contains a provisions that includes the applicable licenses under 10 CFR Parts ~~30, 40, and~~ 70 to receive, possess, and use at any time such quantities of source, byproduct, and special nuclear material as needed to construct the utilization facility and transition the

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utilization facility to STPNOC for operation on the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103 (c).

- License STPNOC pursuant to Section 103 of the Act and 10 CFR Part 52 to possess, use, and operate South Texas Project Unit 4 at the designated location in Matagorda County, Texas, beginning on the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103(c). It is requested that the term of the license be for a period of 40 years from the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103(c), and contains a provisions that includes the applicable licenses under 10 CFR Parts ~~30, 40, and~~ 70 to receive, possess, and use at any time such quantities of source, byproduct, and special nuclear material as needed to operate the utilization facility.
- License NINA 4 and ~~the~~ CPS Energy pursuant to Section 103 of the Act and 10 CFR Part 52 to possess South Texas Project Unit 4 and own a 92.375% and a 7.625% undivided interest, respectively, therein, at the designated location in Matagorda County, Texas. It is requested that the term of the license be for a period of 40 years from the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103(c).

Pursuant to the license for each facility, NINA will be responsible for meeting all of the requirements of the license, including compliance with the regulations and maintaining all of the programs required by each license (such as quality assurance program, security program, records management, etc.) until responsibility under each license is transitioned to STPNOC on the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103(c). To the extent that STPNOC engages in activities prior to such date in order to prepare for operations, it will do so pursuant to the licenses and NINA's programs, processes and procedures; NINA will be responsible for such activity conducted by STPNOC.

Responsibility under each license, including compliance with the regulations and maintaining all of the programs required by each license, will be completely transitioned to STPNOC on the date for each unit on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103(c). To the extent that NINA conducts construction activities relating to a facility after responsibility for the license has been transitioned to STPNOC, STPNOC will be the responsible licensee, and NINA will conduct such activities pursuant to STPNOC's programs, processes, and procedures.

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Revisions have been made to this COLA in Part 1 and in Part 2 Chapters 1, 13, and 17 of the Final Safety Analysis Report, in order to properly reflect the division of responsibility under the licenses as between NINA and STPNOC. Otherwise, throughout the COLA and supplemental information submitted regarding the COLA, all other references to STPNOC should be construed to mean the licensee with primary responsibility for each license, i.e., NINA during design and construction and thereafter STPNOC, unless the context requires otherwise. For example, references to historical actions taken by STPNOC (e.g., "STPNOC performed an analysis of . . .") reflect such actions. Other references may reflect future actions (e.g., "STPNOC will . . .") to be taken either by NINA during design and construction or thereafter, by STPNOC. Nevertheless, the applicable licensee with primary responsibility assumes full responsibility under the application and licenses for responsibilities associated with all historical references.

1.2 General Information

The applicants for STP 3 & 4 are NINA 3, NINA 4, CPS Energy, STPNOC and NINA as described in the requested license actions above. Effective as of January 24, 2011, NINA became the applicant with overall responsibility for the COLA, including design and quality activities conducted prior to issuance of the requested licenses. The required general information for the applicants is provided below separated by applicant.

Nuclear Innovation North America LLC

NINA is a company whose focus is to market and promote ABWR nuclear technology, and to develop and construct ABWR nuclear power generation facilities in the U.S. NINA has assumed responsibility for the design and construction of STP 3 & 4, and it has organized itself for this purpose by transitioning the previously existing STPNOC organization responsible for the development of STP 3 & 4 from STPNOC to NINA. This transition includes the programs, processes and procedures developed by STPNOC for STP 3 & 4.

NINA is a Delaware limited liability company that was formed in February 2008 by NRG Energy, Inc. (NRG Energy). On February 29, 2008, Toshiba Corporation (Toshiba) entered into agreements with NRG Energy to invest up to \$300 million in NINA in return initially for 12% of the membership interests, with NRG Energy owning the remaining 88%. The ownership interests are subject to change based upon ongoing capital contributions by the members. The parties closed on the joint venture transaction on May 1, 2008.

NINA is currently owned approximately 89.5% by NRG Energy and 10.5% by Toshiba America Nuclear Energy Corporation (Toshiba America Nuclear), a Delaware corporation. Toshiba America Nuclear is a wholly owned subsidiary of Toshiba America, Inc., a Delaware corporation, which is a wholly owned subsidiary of Toshiba Corporation, a Japanese corporation (together, with its U.S. subsidiaries, referred to as the Toshiba Companies). The existing ownership structure of these companies is reflected in Figure 1.1-1.

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In addition, NINA has entered into certain agreements with Stone & Webster Inc. (S&W), a Louisiana corporation, whereby S&W has the right to acquire an ownership interest in NINA from NRG Energy, which would reduce NRG Energy's interest in NINA. S&W is a wholly owned subsidiary of The Shaw Group Inc., a Louisiana corporation, which is publicly traded on the New York Stock Exchange.

The ownership percentages held by each of the members of NINA can change over time based upon S&W exercising its option to acquire ownership interests or based upon equity contributions by the members being made to fund NINA activities in amounts that are disproportionate to the ownership interests of the members. For example, if Toshiba were to fund NINA activities with equity contributions and NRG Energy did not contribute its proportionate share, Toshiba's total ownership interest in NINA would increase through accretion and NRG Energy's total ownership interest in NINA would be reduced through dilution. However, if funding is provided through loans to NINA, the ownership percentages do not change.

In a Press Release issued on April 19, 2011, NRG announced that "while it will cooperate with and support its current partners and any prospective future partners in attempting to develop STP 3&4 successfully, NRG will not invest additional capital in the STP development effort." Thus, the ownership percentages among the NINA owners may change in the future. It is routine for there to be periodic, indeed daily, changes in the ownership of publicly traded holding companies that own subsidiary companies that hold NRC licenses. Therefore, the fact that there may be changes in the ownership of NINA from time to time is consistent with current NRC practice, which accepts the practical reality that there are routine minor changes in the ownership of the holding companies for existing reactor licensees throughout the United States, without any need for NRC action or routine notices to NRC regarding these changes in ownership. However, because NINA is owned by multiple parent holding companies that are themselves publicly traded, NINA plans to keep the NRC informed regarding the ownership percentages of each such parent holding company. If there are any material changes in the ownership percentages among the current owners, e.g., 5% or more variance from the ownership percentages previously described in the COLA, NINA will notify the NRC in a timely manner and identify the change in the next update to the COLA. If any material new investors join in the ownership of NINA, NINA will also notify NRC of such owners, and the investors will be identified in the next update to the COLA.

After issuance of the COL, any changes in the ownership of NINA may require prior review by the NRC under NRC's existing regulations. NRC review may be required for purposes of either: (1) obtaining prior written consent of the NRC pursuant to 10 CFR 50.80, if such changes involve a direct or indirect transfer of control of any NINA license; or (2) obtaining a threshold determination by the NRC that no such approval is required.

In addition, material changes in the foreign ownership of NINA will be reported to NRC in accordance with NRC's Regulatory Information Summary 2000-01, "Changes Concerning Foreign Ownership, Control, or Domination of Nuclear Reactor Licensees" (Feb. 1, 2000). Foreign ownership issues are addressed in Section 1.5 of this Part 1

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and in the Negation Action Plan (NAP) provided as Appendix 1D of Final Safety Analysis Report Chapter 1. Section 2.0(c) of the NAP, provides that NINA will assure that U.S. owners at all times hold at least 10% of the equity of NINA. Taking into account CPS Energy's 7.625% ownership interests, indirect foreign ownership of STP 3&4 will at all times be less than 85%.

In a May 5, 2011 Form 10 Q filing with the Securities and Exchange Commission, NRG stated as follows:

NRG evaluated its investment in NINA for impairment. As part of this process, NRG evaluated the contractual rights and economic interests held by the various stakeholders in NINA, and concluded that **while it continues to hold majority legal ownership**, NRG ceased to have a controlling financial interest in NINA at the end of the first quarter of 2011. Consequently, NRG deconsolidated NINA as of March 31, 2011, in accordance with ASC-810, Consolidation, or ASC 810.

(Emphasis added.) The phrase "ceased to have a controlling financial interest" relates to financial accounting standards, and NRG's conclusion that it would deconsolidate its financial interests in NINA as of March 31, 2011, for purposes of NRG's accounting treatment, which has impacts on NRG's consolidated balance sheet. However, NRG continues to have a controlling legal ownership interest in NINA, and it will continue to exercise control over nuclear safety and security matters, i.e., control of NINA within the meaning of Section 103.d of the Act and 10 CFR 50.38, until such time as the earlier of either: (1) the implementation of the NAP described in Section 1.5 below; or (2) the occurrence of NINA ownership changes that amount to a change in control of NINA for purposes of 10 CFR 50.80 (if such regulation were to apply, i.e., after issuance of a license), but which in any event will be subject to the implementation of the NAP as described in Section 1.5 below.

NINA's principal offices are located at:

521 Fifth Avenue, 30th Floor
New York, NY 10175

NINA's STP 3 & 4 organization that is focused on the design and construction of STP 3 & 4 and coordination with STPNOC for the operation of STP 3 & 4 maintains offices at:

4000 Avenue F
Bay City, Texas 77414

The name, address, and citizenship of each director and principal officer of NINA are provided in Table 1.2-1.

NRG Energy, Inc.

NRG Energy is a wholesale power generation company with a significant presence in major competitive power markets in the United States. NRG Energy is engaged in the

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ownership, development, construction and operation of power generation facilities, the transacting in and trading of fuel and transportation services, and the trading of energy, capacity and related products in the United States and select international markets. As of December 31, 2009, NRG Energy had a total global generation portfolio of 187 active operating fossil fuel and nuclear generation units, at 44 power generation plants, with an aggregate generation capacity of approximately 24,115 MW, and approximately 400 MW under construction which includes partner interests of 200 MW. In addition to its fossil fuel plant ownership, NRG Energy has ownership interests in operating renewable facilities with an aggregate generation capacity of 365 MW, consisting of three wind farms representing an aggregate generation capacity of 345 MW (which includes partner interest of 75 MW) and a solar facility with an aggregate generation capacity of 20 MW. ~~NRG Energy has one of the largest and most diversified power generation portfolios in the United States, with approximately 23,110 MW of fossil fuel and nuclear generation capacity in 179 active generating units at 42 plants and 365 MW renewable generation capacity, which consists of ownership interests in three wind farms and a solar facility.~~

NRG Energy is incorporated in the State of Delaware and was formed in 1992 as the non utility subsidiary of Northern States Power Company, which was itself merged into New Century Energies, Inc. to form Xcel Energy, Inc., in 2000. NRG Energy is no longer affiliated with Northern States Power or Xcel Energy, Inc. NRG Energy is a wholesale power generation company that is publicly owned and traded on the New York Stock Exchange. It primarily engages in the ownership and operation of power generation facilities, the transacting in and trading of fuel and transportation services, and the marketing and trading of energy, capacity and related products in the United States and internationally. NRG Energy has a diverse portfolio of electric generation facilities in terms of geography, fuel type, and dispatch levels. In the Texas deregulated electricity market, NINA 3 and NINA 4 will sell their portions of the electrical energy produced at STP to the general ERCOT market described below.

NRG Energy's principal offices are located at:

211 Carnegie Center
Princeton, NJ 08540

The name, address, and citizenship of each director and principal officer of NRG Energy are provided in Table 1.2-2.

NINA Texas 3 LLC and NINA Texas 4 LLC

NINA 3 and NINA 4 are limited liability companies organized under the laws of the State of Delaware, and they operate in the state of Texas. NINA 3 and NINA 4 are wholly owned subsidiaries of NINA Investments LLC, a limited liability company organized under the laws of the State of Delaware, which in turn is a wholly owned subsidiary of NINA Investments Holdings LLC (NINA Holdings), a limited liability company organized under the laws of the State of Delaware, and a wholly owned subsidiary of NINA. Through its wholly owned subsidiaries, NINA owns 100% of NINA 3 and NINA 4.

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It is anticipated that there ~~will~~may be additional equity investors in NINA and/or its subsidiaries prior to beginning construction under the COL. If additional foreign or domestic investors agree to participate in the ownership of NINA 3 and NINA 4, any such investors will be subject to a foreign ownership control and domination Negation Action Plan as described in greater detail in Section 1.5 below.

The offices for NINA 3 and NINA 4, their controlling parent companies, and the Toshiba Companies are located at:

Nuclear Innovation North America LLC
NINA Investments Holdings LLC
NINA Investments LLC
NINA Texas 3 LLC
NINA Texas 4 LLC
521 5th Avenue, 30th Floor
New York, New York 10175
and
4000 Avenue F
Bay City, Texas 77414

NRG Energy, Inc.
211 Carnegie Center
Princeton, New Jersey 08540

Toshiba Corporation
1-1, Shibaura 1-chome, Minato-ku,
Tokyo 105-8001, Japan

Toshiba America Nuclear Energy Corporation
3545 Whitehall Park Drive, Suite 500
Charlotte, NC 28273

Toshiba America, Inc.
1251 Avenue of the Americas, Suite 4110
New York, NY 10020

The name, address, and citizenship of each of the directors and officers of the ~~corporations~~ NINA 3 and NINA 4 are provided in Table 1.2-3.

City Public Service Board of the City of San Antonio

CPS Energy is a Texas municipal utility and an independent Board of the City of San Antonio. The City of San Antonio, Texas acquired its electric and gas utilities in 1942 from the American Light and Traction Company, which had been ordered by the federal government to sell properties under provisions of the Holding Company Act of 1935. Today, CPS Energy is the nation's largest municipally owned energy company providing both natural gas and electric service, serving more than 700,000 electric customers and approximately 320,000 natural gas customers in and around the

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seventh largest city in the United States. CPS Energy has earned the highest financial rating of any municipal gas and electric system in the nation.

The offices for CPS Energy are located at:

CPS Energy
145 Navarro
San Antonio, Texas 78205

CPS Energy
PO Box 1771
San Antonio, Texas
78296

The name, address, and citizenship of each of the trustees and senior executive team members of CPS Energy are provided in Table 1.2-4.

STP Nuclear Operating Company

Pursuant to an Operating Agreement between the participants of STP 1 & 2, STPNOC is responsible for the licensing, operation, maintenance, modification, decontamination, and decommissioning of STP 1 & 2, and STPNOC will have the same responsibility for STP 3&4 after responsibility under each license is transitioned to STPNOC on the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allows operation during an interim period under the combined license under 10 CFR 52.103(c). The participants of STP 1 & 2 are liable for payments that are chargeable to STP 1 & 2 in proportion to each of the participant's respective undivided ownership interest in STP 1 & 2. During commercial operation, the participants in STP 3 & 4 will be liable for payments chargeable to STP 3 & 4 in proportion to each of the participant's respective undivided ownership interest in STP 3 & 4. Common facilities charges are shared by the STP 1 & 2 and STP 3 & 4 participants. STPNOC will operate STP 3 & 4 pursuant to terms of the existing Operating Agreement. STPNOC is a Texas non-profit corporation.

The offices for STPNOC are located at:

STP Nuclear Operating Company
4000 Avenue F
Bay City, Texas 77414

The name, address, and citizenship of each of the directors and officers of STPNOC are provided in Table 1.2-5

Regulatory Agencies with Jurisdiction over Rates and Services

Retail Service Rates:

Under the Texas Public Utility Regulatory Act (PURA), significant original jurisdiction over the rates, services, and operations of "electric utilities" is vested in the Public Utility Commission of Texas (PUCT). In this context, "electric utility" means an electric investor-owned utility. Since the electric deregulation aspects of PURA became effective on January 1, 2002, the PUCT's jurisdiction over electric investor-owned

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utility (IOU) companies primarily encompasses only the transmission and distribution functions.

The PUCT has jurisdiction over the electric market in the Electric Reliability Council of Texas (ERCOT) region. That authority is focused on wholesale and retail market oversight, customer protection rules, utility (delivery) ratemaking and oversight, reliability compliance, and matters related to the transition to the competitive market, such as oversight of nuclear decommissioning trusts of existing nuclear plants in ERCOT. Traditional retail ratemaking for much of the ERCOT region has been replaced with a "customer choice" model where retail rates are established in a competitive market, subject to PUCT customer protection rules. Likewise, the wholesale electric market pricing is set by competitive processes (under the market oversight of the PUCT and a Wholesale Market Monitor selected by the PUCT), both through bilateral power agreements and as part of ERCOT ancillary service auctions. The ERCOT corporate organization serves as the independent system operator responsible for transmission system open access, energy scheduling and accounting, transmission control area management, system planning, and support of the competitive retail market and financial settlement of the wholesale market. Municipal utilities, including CPS Energy, and electric cooperatives have authority to acquire energy and set retail rates under their own authority and may choose to be exempt from the competitive market.

PURA generally excludes municipally-owned utilities (Municipal Utilities), such as CPS Energy, from PUCT jurisdiction, although the PUCT has jurisdiction over electric wholesale transmission rates. Under the PURA, a municipal governing body or the body vested with the power to manage and operate a Municipal Utility such as CPS Energy has exclusive jurisdiction to set rates applicable to all services provided by the Municipal Utility with the exception of electric wholesale transmission activities and rates. Unless and until the City Council and Board choose to opt-in to electric retail competition, CPS Energy retail service electric rates are subject to appellate, but not original rate regulatory jurisdiction by the PUCT in areas that CPS Energy serves outside the San Antonio City limits. To date, no such appeal to the PUCT of CPS Energy retail electric rates has ever been filed. CPS Energy is not subject to the annual PUCT gross receipts fee payable by electric utilities.

Transmission Access and Related Rate Regulation:

ERCOT manages the flow of electric power to approximately 20 million Texas customers, representing 85 percent of the state's electric load and 75 percent of the Texas land area. As the independent system operator for the region, ERCOT schedules power on an electric grid that connects 38,000 miles of high-voltage transmission lines and more than 500 generation units. ERCOT also manages financial settlements for the competitive wholesale bulk-power market and administers customer switching for 5.9 million Texans in competitive choice areas. ERCOT is a membership-based nonprofit corporation, governed by a board of directors and subject to oversight by the PUCT and the Texas Legislature. ERCOT's members include retail consumers, investor- and municipal-owned electric utilities, rural electric cooperatives,

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river authorities, independent generators, power marketers and retail electric providers.

Pursuant to amendments made by the Texas Legislature in 1995 to the PURA (PURA95), Municipal Utilities, including CPS Energy, became subject to the regulatory jurisdiction of the PUCT for transmission of wholesale energy. PURA95 requires the PUCT to establish open access transmission on the interconnected Texas grid for all utilities, co-generators, power marketers, independent power producers and other transmission customers.

The 1999 Texas Legislature amended the PURA95 to expressly authorize rate authority over Municipal Utilities for wholesale transmission and to require that the postage stamp method be used exclusively for pricing wholesale transmission transactions. The PUCT in late 1999 amended its transmission rule to incorporate fully the postage stamp pricing method which sets the price for transmission at the system average for ERCOT. CPS Energy's wholesale open access transmission charges are set out in tariffs filed at the PUCT, and are based on its transmission cost of service approved by the PUCT, representing CPS Energy's input to the calculation of the statewide postage stamp pricing method. The PUCT's rule, consistent with provisions in PURA §35.005(b), also provides that the PUCT may require construction or enlargement of transmission facilities in order to facilitate wholesale transmission service.

The offices for PUCT and ERCOT are located at:

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

Electric Reliability Council of Texas
7620 Metro Center Drive
Austin, Texas 78744

Trade and News Publications

Table 1.2-6 provides a list of trade and news publications that would be appropriate to provide reasonable notice of the application to those municipalities, private utilities, public bodies, and cooperatives that might have a potential interest in the facility.

1.3 Financial Qualifications

NINA 3 and NINA 4

As of January 31, 2010, the owners (NINA 3, NINA 4, and CPS Energy) had incurred expenditures of approximately \$706 million developing STP 3 & 4, and funding for these costs has already been committed to the project. CPS Energy has ~~already completely funded nearly its entire share of the costs incurred through January 31, 2010, and the total amount remaining to be paid by CPS Energy as of May 1, 2010 was less than \$10 million.~~ The remaining funding for the construction of STP 3 will be provided by NINA 3, and the remaining funding for the construction of STP 4 will be provided by NINA 4.

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On March 1, 2010, the owners reached an agreement whereby CPS Energy has reduced its ownership interest in the project to 7.625%, and NINA 3 and NINA 4 will be responsible for arranging for the financing and equity contributions necessary to complete development and construction of STP 3 & 4. ~~Excepting obligations regarding the funding of costs incurred by January 31, 2010,~~ CPS Energy is not responsible for any further funding obligations until commercial operation. As such, NINA 3 and NINA 4 demonstrate herein that, ~~upon meeting certain conditions,~~ there is reasonable likelihood that they will have sources for funding 100% of the remaining costs during construction.

Tables 1.3-1 provides a summary of project costs for STP 3 & 4 as estimated by NINA. Table 1.3-2 provides the projected source of funds. As shown in Table 1.3-2, NINA 3 and NINA 4 each demonstrates the ability to fund its pro-rata share of the Project utilizing its respective sources of funding. Under the terms of the settlement agreement, NINA 3 and NINA 4 are expected to make certain payments to CPS Energy in the future. As such, CPS Energy's projected "net" contribution toward construction is reflected as a source of funds in Table 1.3-2, rather than an amount equal to 50% of the costs incurred through January 31, 2010. NINA 3 and NINA 4 expect to obtain a Department of Energy (DOE) Loan Guarantee to provide funding for the estimated costs in Table 1.3-1. The anticipated terms of such a Loan Guarantee and prerequisites for a financial closing for such a Loan Guarantee are set forth in detail in the draft Term Sheet for DOE conditional loan guarantee commitment dated February 9, 2011. These conditions require that a complex package of equity commitments, reserve funds, and credit facilities (including working capital) be obtained and put in place prior to financial closing, consistent with the source of funds in Table 1.3-2. Thus, NINA 3 and NINA 4 are financially qualified based upon the following license condition being met prior to pouring any safety related concrete for STP 3 & 4:

The pouring of safety-related concrete for STP Units 3 and 4 shall not commence before funding is committed, as evidenced by the licensees making available for NRC inspection, executed copies of:

- (a) the Loan Guarantee Documents, the Supplemental Facility Documents, and the Working Capital Documents, as defined in the draft Term Sheet for DOE conditional loan guarantee commitment dated February 9, 2011; or
- (b) other documentation evidencing a financial closing, which includes financing through loan arrangements, including requirements regarding equity commitments and working capital, that are equivalent or substantially comparable to the financing arrangements contemplated by the draft Term Sheet for DOE conditional loan guarantee commitment dated February 9, 2011.

Table 1.3-3 provides the operations and maintenance costs corresponding to NINA's share of the Project for the first five years for Unit 3 and Unit 4. The sources to cover the operating costs for NINA will come from the sale of electricity through Power

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Purchase Agreements (PPAs) as well as through merchant sales to the wholesale power market. A description of the PPAs is provided in Table 1.3-4. The terms of the draft Term Sheet for DOE conditional loan guarantee commitment dated February 9, 2011 require that NINA 3 and NINA 4 meet certain conditions relating to the execution of PPAs as well as impose working capital requirements to assure that adequate funds are available during operation. As such, meeting the license condition described above also provides reasonable assurance that NINA 3 and NINA 4 will have adequate funds to pay for operating costs during plant operations.

~~CPS Energy is an "electric utility" as defined in 10 CFR 50.2 and in COL ISG 02, "Interim Staff Guidance on Financial Qualifications of Applicants for Combined License Applications," and therefore, in accordance with 10 CFR 50.33(f), CPS Energy is not required to provide detailed O&M finance estimates as part of this submittal.~~

The financial qualifications of ~~the proposed licensees~~ NINA 3 and NINA 4 are demonstrated through the information provided in Tables 1.3-1 through 1.3-4. Further background information is provided below.

All tables referenced above are proprietary and confidential, and should be withheld from public disclosure.

Nuclear Innovation North America LLC

NINA is a company whose focus is to market and promote ABWR nuclear technology, and develop and construct ABWR nuclear power generation facilities in the U.S. NINA was formed in February 2008 by NRG Energy. On February 29, 2008, Toshiba entered into agreements with NRG Energy to invest up to \$300 million in NINA in return initially for 12% of the membership interests, with NRG Energy owning the remaining 88%. The ownership interests are subject to change based upon ongoing capital contributions by the members. The parties closed on the joint venture transaction on May 1, 2008. In addition to its up to \$300 million investment in NINA, Toshiba has extended EPC terms exclusively to NINA for an additional four units beyond STP 3 & 4 in order to facilitate the development of additional ABWR plants in the U.S. With the support of its shareholders, NINA is uniquely positioned to lead the nuclear renaissance in the U.S. with ABWR as the nuclear technology of choice. ~~NINA intends to use the combination of NRG Energy's leadership position in the power generation industry along with Toshiba's premier position in nuclear engineering, design and construction to develop and build its own new nuclear units as well as provide value-added solutions to other companies pursuing new nuclear development.~~

NINA plans to execute a licensing, design and construction services agreement with NINA 3 and NINA 4. The licensing, design and construction services agreement will clearly delineate NINA's authority with respect to design and construction, the authority of NINA 3 and NINA 4 with respect to financial decisions, and the obligation of the NINA 3 and NINA 4 to pay for the costs of construction. As such, NINA's financial qualifications are derived from the reasonable assurance that NINA 3 and NINA 4 will provide funding during construction.

NRG Energy

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~~NRG Energy provides the following information required by 10 CFR 50.33(f), 10 CFR 50 App C, and NUREG 1577, Rev. 1 to demonstrate that NRG Energy possesses or has reasonable assurance of obtaining the funds necessary to cover estimated construction costs and related fuel cycle costs.~~

~~As of December 31, 2009, NRG Energy had a total global portfolio of 187 active operating fossil fuel and nuclear generation units, at 44 power generation plants, with an aggregate generation capacity of approximately 24,115 MW, and approximately 400 MW under construction which includes partner interests of 200 MW. In addition to its fossil fuel plant ownership, NRG Energy has ownership interests in operating renewable facilities with an aggregate generation capacity of 365 MW, consisting of three wind farms representing an aggregate generation capacity of 345 MW (which includes partner interest of 75 MW) and a solar facility with an aggregate generation capacity of 20 MW. NRG Energy has one of the largest and most diversified power generation portfolios in the United States, with approximately 23,110 MW of fossil fuel and nuclear generation capacity in 179 active generating units at 42 plants and 365-MW renewable generation capacity, which consists of ownership interests in three wind farms and a solar facility.~~

~~On February 23, 2010, NRG Energy reported full year 2009 and fourth quarter results. 2009 was a record year for NRG Energy both in terms of Earnings Before Interest, Taxes, Depreciation and Amortization (known as EBITDA) and cash flow, despite challenging economic conditions. Adjusted cash from operations increased 26% to a record \$1.862 billion for the full year. Liquidity for the company continues to grow, with a year end total of \$3.8 billion, including \$2.3 billion in cash.~~

~~Full year 2009 financial highlights include:~~

- ~~■ \$2,618 million of adjusted EBITDA up 14% from 2008~~
- ~~■ \$1,862 million of adjusted cash from operating activities up 26% from 2008~~
- ~~■ \$941 million of net income and \$3.44 per diluted common share~~
- ~~■ \$500 million of common stock (19.3 million shares) repurchased during the year~~

~~For the year ended December 31, 2009, NRG Energy generated approximately \$2.1 billion of free cash flow from operations and had total assets of approximately \$23 billion. The company aggressively manages its credit profile, and targets credit metrics well beyond its stipulated ratings from the credit rating agencies. As of December 31, 2009, NRG Energy maintained a Debt to Total Capitalization ratio of 55% and Debt to EBITDA of 3.1x. Commensurate with aggressively managing its credit profile, NRG Energy employs a disciplined approach to capital allocation. The process within NRG Energy of devoting capital to new projects is a rigorous one, with only the most deserving projects receiving funding. With respect to the future, NRG Energy is expected to generate \$9.2 billion in free cash flow (excluding STP 3 & 4 development costs) or 5.5x its funding requirement for STP 3 & 4 through Commercial Operation Date (COD). Accordingly, NRG Energy is capable of fully funding its share of Project costs through COD by relying solely on cash flow from operations.~~

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~~Further detailed financial information on NRG Energy may be found at www.sec.gov or at www.nrgenergy.com.~~

CPS Energy

CPS Energy is the trademarked name through which the City of San Antonio, acting by and through the City Public Service Board, does business. CPS Energy is a Texas municipal utility and an independent Board of the City of San Antonio. CPS Energy generates and distributes electricity and recovers the cost of this electricity through rates approved by its rate regulator, the City of San Antonio, thus meeting the definition of an "electric utility" in 10 CFR 50.2. Therefore, CPS Energy is exempt from financial qualification review for the operating license pursuant to 10 CFR 50.33(f) and in accordance with Section III. 1.b. of NUREG-1577, Rev. 1. As noted above, CPS Energy has already provided substantial funding for the development of STP 3 & 4, originally as a 50% owner. It now is relying upon NINA 3 and NINA 4 to provide funding for the remaining costs to develop and construct STP 3 & 4, including CPS Energy's 7.625% interests in STP 3 & 4.

CPS Energy is an "electric utility" as defined in 10 CFR 50.2 and in COL-ISG-02, "Interim Staff Guidance on Financial Qualifications of Applicants for Combined License Applications," and therefore, in accordance with 10 CFR 50.33(f), CPS Energy is not required to provide detailed O&M finance estimates as part of this submittal.

STPNOC

Pursuant to an Operating Agreement between the participants of STP 1 & 2, STPNOC is responsible for the licensing, operation, maintenance, modification, decontamination, and decommissioning of STP 1 & 2, and STPNOC will have the same responsibility for STP 3 & 4. As indicated above, the terms of the operating Agreement provide that the owners fund STPNOC's costs for operating STP 1 & 2 and STP 3 & 4. As such, STPNOC's financial qualifications are derived from the reasonable assurance that NINA 3, NINA 4, and CPS Energy will provide funding during operations.

1.4 Decommissioning Funding Assurance

The plant owners certify that prior to initial fuel load they will provide assurance for funding decommissioning based upon the NRC minimum "formula" amount calculated pursuant to 10 CFR 50.75(c). Table 1.4-1 provides the current calculation of the NRC formula amount, which is the same for STP 3 and STP 4. This amount will be adjusted annually in accordance with 10 CFR 50.75(b)(2). The plant owners' funding proposals to cover those costs in accordance with 10 CFR 50.75 are set forth below.

CPS Energy will provide decommissioning funding assurance for its proportionate obligation for decommissioning based upon its percentage interests of 7.625% in each unit using the external sinking fund method as provided for in 10 CFR 50.75(e)(1)(ii). CPS Energy qualifies to use this as its exclusive mechanism under the provisions of 10 CFR 50.75(e)(1)(ii)(A), because it is a municipality that establishes its own rates and is able to recover its cost of service allocable to decommissioning. In accordance

STP 3 & 4**General and Financial Information**

with the requirements of 10 CFR 50.75(e)(1)(ii), CPS Energy will set aside funds periodically, no less frequently than annually, in a trust fund account segregated from its assets and outside its administrative control and in which the total amount of funds will be sufficient to fund decommissioning at the time permanent cessation of operations is expected.

In accordance with the terms of 10 CFR 50.75(e)(1)(vi), NINA 3 and NINA 4 will provide decommissioning funding assurance for their proportionate obligations for decommissioning based upon their percentage interests of 92.375% in each unit as described in Section 1.1 above using the external sinking fund method consistent with the provisions of 10 CFR 50.75(e)(1)(ii), except that NINA 3 and NINA 4 will not ordinarily collect funding from ratepayers. In accordance with the requirements of 10 CFR 50.75(e)(1)(ii), NINA 3 and NINA 4 will set aside funds periodically, no less frequently than annually, in a trust fund account segregated from their assets and outside of their administrative control and in which the total amount of funds will be sufficient to fund decommissioning at the time permanent cessation of operations is expected. However, the funds periodically set aside are expected to be generated from sales of power. Although NINA 3 and NINA 4 will not ordinarily collect funds from ratepayers as required by 10 CFR 50.75(e)(1)(ii)(A), exclusive reliance on this mechanism should be acceptable, because Texas Law provides a mechanism whereby NINA 3 and NINA 4 can elect to set aside funds under the jurisdiction and oversight of the PUCT, and pursuant to this mechanism, Texas law provides that ratepayers would be obligated to fund the total cost of decommissioning in the event that NINA 3 and NINA 4 fail to periodically set aside funds as planned. Tex. Util. Code Ann. § 39.206 (Vernon 1998 and Supp. 2007); P.U.C. Subst. R. 25.304. Thus, if NINA 3 and NINA 4 do not provide periodic funding from their own revenues, Texas Law would provide for a mechanism for funding decommissioning that does meet the requirements of 10 CFR 50.75(e)(1)(ii)(A).

A Decommissioning Report and certifications are provided in Table 1.4-1 consistent with the requirements of 10 CFR 50.75(b) and 10 CFR 50.75(e)(3).

1.5 Foreign Ownership Restrictions**CPS Energy**

CPS Energy is a Texas municipal utility and an independent Board of the City of San Antonio. CPS Energy is neither owned, controlled, nor dominated by an alien, foreign corporation or foreign government.

NRG Energy

Section 13(d) of the Securities 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% of the securities of a company must file notice with the Securities and Exchange Commission (SEC). Based upon filings with the SEC, as of June 30, 2010, the only alien, foreign corporation, or foreign government that NRG Energy is aware of that holds more than 5% of the securities of NRG Energy is Orbis Investment Management, which is located

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in the United Kingdom and holds 15,435,027 shares of NRG Energy (which equates to an approximate ownership of 6%).

The directors and executive officers of NRG Energy are United States citizens, except for one executive officer. The one executive officer with foreign citizenship will not be able to exercise control over NRG Energy. As such, neither NRG Energy, nor the subsidiaries that it controls are owned, controlled, or dominated by any alien, foreign corporation, or foreign government.

NINA, NINA 3 and NINA 4

NINA has implemented the STP 3&4 Negation Action Plan (NAP) to provide requirements and guidance to ensure negation of potential foreign ownership, control or domination (FOCD) over the STP 3&4 licenses held by NINA, NINA 3, NINA 4 and CPS Energy. To allow for flexibility regarding NINA's ultimate ownership structure, the NAP assumes that the NINA ownership structure could include having a foreign owner or combination of foreign owners with ownership shares that are substantially greater than 50%, but NINA will assure that U. S. owners at all times hold at least 10% of the equity of NINA. The measures undertaken in the NAP provide the basis to conclude that NINA, NINA 3 and NINA 4 will not be owned, dominated, or controlled by foreign interests within the meaning of the Atomic Energy Act, and that issuance of a COL would not be inimical to the common defense and security. The NAP is provided as Appendix 1D of Final Safety Analysis Report Chapter 1, and implements measures to fully negate FOCD with respect to matters involving the nuclear safety, security, and reliability of STP 3&4 throughout the design, construction and operation of STP 3&4. The NAP describes the controls implemented to assure that the governance of NINA and the licensed activities undertaken by NINA, NINA 3 and NINA 4 are not subject to FOCD within the meaning 10 CFR 50.38 and Section 103.d of the Atomic Energy Act of 1954, as amended (Section 103.d of the Act).

The NAP was developed using the guidance provided by the NRC's "Final Standard Review Plan on Foreign Ownership, Control, or Domination," 64 FR 52355 (September 28, 1999) (FOCD SRP). Defense-in-depth is provided through a number of measures in order to assure that there is U.S. control over matters relating to nuclear safety, security and reliability, including most significantly the security programs and safety programs, including Quality Assurance. These measures effectively negate the risk that the foreign owned parent companies might exercise control, domination, or influence over matters that are required to be under U.S. control pursuant to the terms of 10 CFR 50.38 and Section 103.d of the Act.

~~NINA will be the licensee responsible for the design and construction of STP 3 & 4, which will be owned by CPS, NINA 3, and NINA 4. NINA 3 and NINA 4 are entities that are and will be owned and controlled by NINA through its intermediary holding company subsidiaries.~~

~~NINA plans to execute a licensing, design and construction services agreement with NINA 3 and NINA 4. The licensing, design and construction services agreement will clearly delineate NINA's authority with respect to design and construction, the authority~~

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of NINA 3 and NINA 4 with respect to financial decisions, and the obligation of NINA 3 and NINA 4 to pay for the costs of construction. Significantly, these terms will make clear that NINA, as the licensee responsible for design and construction, will have sole authority to make all decisions and to take all actions necessary or useful, *inter alia*:

- (a) To protect public health and safety and to determine appropriate action to be taken with respect to any matter relating to nuclear safety, quality, security or reliability, including, but not limited to, the following matters:
 - (i) Implementation or compliance with any NRC generic letter, bulletin, order, confirmatory order or similar requirement issued by the NRC;
 - (ii) Prevention or mitigation of a nuclear event or incident or the unauthorized release of radioactive material;
 - (iii) Placement of the plant in a safe condition following any nuclear event or incident;
 - (iv) Compliance with the Atomic Energy Act, the Energy Reorganization Act, or any NRC Rule;
 - (v) The obtaining of or compliance with a specific license issued by the NRC and its Technical Specifications;
 - (vi) Conformance with a specific Final Safety Analysis Report, or other licensing basis document; and
 - (vii) Implementation of security plans and procedures, control of security information, administration of access to controlled security information, and compliance with government clearance requirements regarding access to restricted data.

The above list of matters over which NINA will have sole authority has been formulated in the context of operating reactors, and therefore, some of the above matters may not have full applicability to the construction of STP 3&4. However, the full range of matters is included so as to assure clarity as to NINA's authority as the licensee organization singularly responsible for direction of the design and construction of the proposed plant until such authority is transitioned to STPNOC.

As previously indicated, NINA is currently owned approximately 89.5% by NRG Energy and 10.5% by Toshiba America Nuclear, a Delaware corporation. Toshiba America Nuclear is a wholly owned subsidiary of Toshiba America, Inc., a Delaware corporation, which is a wholly owned subsidiary of Toshiba Corporation, a Japanese corporation. The existing ownership structure of these companies is reflected in Figure 1.1 1. Toshiba America Nuclear itself is indirectly owned, controlled and dominated by a foreign corporation. However, Toshiba America Nuclear is only a minority (approximately 10.5%), non-controlling investor in an intermediate holding company in the corporate ownership chain of NINA 3 and NINA 4. NINA currently is controlled by

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~~NRG Energy, which owns approximately 89.5% of NINA, and Toshiba America Nuclear is not able to exercise domination or control over NINA or any of the subsidiaries controlled by NINA. Under the terms of Section 5.1(d)(ii) of the LLC Agreement governing NINA, unanimous consent is required for certain matters such as change in business activity, indebtedness subject to certain terms, member transactions, change in investor rights, amendments to the LLC agreement, and liquidation. In addition, Toshiba America Nuclear's consent is required for certain matters specified in Section 5.1(d)(iii), including issuance of additional membership units and certain distributions. As such, Toshiba America Nuclear has voting rights regarding these limited high level decisions. However, these rights do not implicate control or domination over NINA, NINA 3 and NINA 4, or over STPNOC, as the licensee responsible for operation of the units.~~

~~NINA anticipates that there will be further equity investors in NINA and/or its subsidiaries, and such investors are likely to include foreign equity participants. As such, NINA will implement additional measures as part of its foreign ownership, control or domination (FOCD) negation action plan, by amending the terms of its governance under the applicable limited liability company operating agreement(s) or LLC Agreement(s) to assure that control over matters relating to the NRC licenses is exercised through a Subcommittee of the Board made up of two independent directors who are U.S. citizens and a U.S. citizen director appointed directly or indirectly by NRG Energy. The following terms, or substantially similar terms, will be included in the voting provisions of the LLC Agreement(s) for NINA and any subsidiary that has a foreign member or directors appointed by a foreign member:~~

~~*Voting Regarding Nuclear Safety, Security and Reliability.*~~

~~The Director of NINA appointed by NRG Energy, who must be a U.S. citizen, and two independent Directors, who are U.S. citizens, shall constitute a Subcommittee of the Board and shall have the exclusive authority to vote and decide on the following matters:~~

- ~~(1) Any matter that, in view of U.S. laws or regulations, requires or makes it reasonably necessary to assure U.S. control;~~
- ~~(2) Any matter relating to nuclear safety, security or reliability, including, but not limited to, the following matters:~~
 - ~~(i) Implementation or compliance with any NRC generic letter, bulletin, order, confirmatory order or similar requirement issued by the NRC;~~
 - ~~(ii) Prevention or mitigation of a nuclear event or incident or the unauthorized release of radioactive material;~~
 - ~~(iii) Placement of the plant in a safe condition following any nuclear event or incident;~~
 - ~~(iv) Compliance with the Atomic Energy Act, the Energy Reorganization Act, or any NRC Rule;~~

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- (v) ~~The obtaining of or compliance with a specific license issued by the NRC and its Technical Specifications;~~
- (vi) ~~Conformance with a specific Final Safety Analysis Report, or other licensing basis document; and~~
- (vii) ~~Implementation of security plans and procedures, control of security information, administration of access to controlled security information, and compliance with government clearance requirements regarding access to restricted data.~~
- (3) ~~Any other issue reasonably determined by such Members, in their prudent exercise of discretion to be an exigent nuclear safety, security or reliability issue; and~~
- (4) ~~Staffing of key executive officer positions of the Company.~~

~~The authority to be exercised by this Subcommittee assures U.S. control and assures that there will be no exercise of FOCD within the meaning of the prohibition in Section 403 of the Atomic Energy Act of 1954, as amended.~~

STPNOC

STPNOC is a not for profit Texas corporation that is controlled by a board of four directors, three members of which are appointed by the City of Austin (Austin), CPS Energy, and NRG South Texas LP, an indirect wholly owned subsidiary of NRG Energy. These three directors choose the fourth director, who then also serves as the Chief Executive Officer. Austin and CPS Energy are governmental organizations in the State of Texas that are controlled by city councils elected by the citizens of these U.S. cities. NRG Energy is a publicly traded, widely held U.S. corporation, and it is not under FOCD.

Pursuant to Article VI of STPNOC's Restated Articles of Incorporation, Austin, CPS Energy and NRG South Texas LP appoint the three "Participant Directors" of STPNOC. Notably, NRG South Texas LP is the successor to "Texas Genco LP," which is the entity named in the Restated Articles of Incorporation dated April 27, 2005. The three Participant Directors elect a fourth CEO/Director by a unanimous vote of all three. As such, all of the STPNOC directors currently are U.S. citizens appointed by organizations that are under U.S. control. The STPNOC directors control STPNOC pursuant to Article V of the Restated Articles of Incorporation, which provides that STPNOC "is to have no members," i.e., it has no owners, but rather "its affairs are managed by a Board of Directors."

STPNOC is subject to U.S. control, and it will exercise authority over nuclear safety, and security, and reliability matters free from any potential for foreign domination or control over its decision making in any area of concern to the NRC under the Atomic Energy Act of 1954, as amended. The NAP provides further information regarding STPNOC and the reasons that in particular, STPNOC is and will remain free from any foreign control or domination with regard to nuclear safety, security or reliability.

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matters, and STPNOC is subject to ongoing U.S. government oversight regarding foreign ownership, control or influence. STPNOC maintains a Facility Security Clearance, and it has individual employees who maintain U.S. government security clearances. In connection with ongoing oversight of these security clearances, STPNOC periodically updates a "Certificate Regarding Foreign Interests" using Standard Form 328 (SF 328), which provides for disclosures regarding potential foreign ownership, control or influence.

The SF 328 includes various questions regarding a range of potential areas of foreign influence, including debt, foreign source income, foreign directors and executive personnel, contracts and agreements with foreigners, etc. Material changes to answers to any questions in the SF 328 are reported to NRC in accordance with 10 CFR 95.17(a)(1). Submittals to U.S. government security officials include the Department of Energy's forms identifying owners, officers, directors and executive personnel (OODEPs), and their citizenship. These OODEPs are submitted and periodically updated for STPNOC, as well as Austin, CPS Energy and the NRG Energy entities in the chain of control of NRG South Texas LP. Austin, CPS Energy and NRG South Texas LP do not "own" STPNOC, but they are treated like owners in connection with the government's security reviews, because they have the right to appoint the STPNOC Participant Directors. Notably, neither NINA 3 nor NINA 4 has any rights regarding the appointment of the directors of STPNOC. If NINA 3 and/or NINA 4 acquired rights regarding appointment of directors, any such rights would be subject to NRC notice and review requirements, e.g., RIS 2000-01.

The owner licensees for STP 3&4 (CPS Energy, NINA 3, and NINA 4) have certain rights and decision making authority regarding financial and other matters pursuant to the terms of the Amended and Restated Participation Agreement effective November 17, 1997 (the "Participation Agreement"). However, the pending application specifies that STPNOC is to be the licensee responsible for operation pursuant to the STP 3&4 licenses. As such, throughout the operation of STP 3&4, STPNOC will have sole responsibility with respect to matters involving nuclear safety, quality, security or reliability, including compliance with all NRC nuclear safety and security requirements (STPNOC's "Sole Authority"). This includes denying unauthorized persons access to security information and assuring compliance with U.S. government requirements governing access to restricted data.

Notably, Section 3.2(2) of the Standard Review Plan on Foreign, Ownership, Control and Domination specifically provides that further consideration is to be given to "whether the applicant is seeking authority to operate the reactor." STPNOC is the entity to be licensed as the operator, and its role as a U.S. controlled entity that will be responsible for nuclear safety and security throughout the operating life of STP 3&4 should be given great weight in evaluating FOCD issues.

Based upon the above information, there is no reason to believe that the licensees for STP 3 & 4 are or will be owned, controlled, or dominated by any alien, foreign corporation, or foreign government. In addition, NINA will establish a nuclear advisory committee as follows:

STP 3 & 4**General and Financial Information****Nuclear Advisory Committee**

~~As a further enhancement to the FOCD negation action plan, NINA will establish a nuclear advisory committee (NAC) in order to provide independent oversight throughout the design, construction and operation of STP 3&4, with respect to any matter relating to nuclear safety, quality, security or reliability. The NAC will provide transparency to the NRC and other U.S. Governmental Authorities regarding any potential for foreign control or domination of NINA or STPNOC with respect to their sole authority to make decisions and to take actions necessary or useful, *inter alia*, to protect public health and safety and to determine appropriate action to be taken with respect to any matter relating to nuclear safety, quality, security or reliability ("Sole Authority") during the time NINA is acting as the licensee responsible for design and construction and the time STPNOC is acting as the licensee responsible for operation. The NAC will be governed by a charter and organized as follows:~~

- ~~■ The NAC will be composed of not less than three independent individuals who are U.S. citizens, but who are not officers, directors or employees of STPNOC, NINA, or any of the STP Owners or their affiliates.~~
- ~~■ At least annually, the members of the committee shall prepare a report and supporting documentation to be delivered to the Management Committee of NINA, with a copy provided to the Chief Executive Officer of STPNOC. Such report shall assess: (i) whether or not NINA and/or its subsidiaries are subject to foreign control or domination with respect to their role as owners of STP 3&4; and (ii) whether or not NINA and STPNOC exercise their Sole Authority free from foreign control or domination. In addition, such report shall provide advice as to whether additional measures should be taken to assure compliance with U.S. laws and regulations regarding foreign control or domination of NINA and STPNOC with respect to their Sole Authority.~~
- ~~■ The NAC shall have requisite authority and freedom of access to perform its duties and exercise its responsibility, including both support from NINA and STPNOC and access to physical facilities and personnel, as reasonably requested by the NAC.~~

~~As such, the NAC will provide additional assurance that any potential for FOCD will be negated by performing an ongoing, independent oversight function.~~

1.6 Restricted Data and Classified National Security Information

The COLA for STP 3 & 4 does not contain any Restricted Data or other Classified National Security Information, nor does it result in any change in access to any Restricted Data or Classified National Security Information. In addition, it is not expected that activities conducted in accordance with the proposed combined license will involve such information. In compliance with Section 145(a) of the Act and 10 CFR 50.37, the applicants agree that they will not permit any individual to have access to, or any facility to possess, Restricted Data or Classified National Security Information until the individual and/or facility has been approved for such access under the provisions of 10 CFR Part 25 and/or 10 CFR Part 95.

STP 3 & 4**General and Financial Information****Table 1.2-1 Officers and Directors of Nuclear Innovation North America LLC**

Nuclear Innovation North America LLC
521 Fifth Avenue, 30th Floor
New York, NY 10175

Contact Name	Position / Title	Citizenship
Officers		
Winn, Steve <u>Seely, Jamey</u>	President and CEO	United States
Bates, John <u>McBurnett, Mark</u>	Chief Operating Nuclear Officer	United States
Chung, Bruce	Chief Financial Officer	United States
Seely, Jamey	General Counsel and Secretary	United States
Galvin, David	Sr. Vice President, Finance & Strategy	United States
Directors		
Crane, David	Manager	United States
Murphy, Drew	Alternate Manager	United States
Igarashi, Yasuharu	Manager	Japan
Sakamoto, Hiroshi	Alternate Manager	Japan

STP 3 & 4**General and Financial Information****Table 1.2-2 Officers and Directors of NRG Energy, Inc.**

NRG Energy, Inc.
211 Carnegie Center
Princeton, NJ 08540

Contact Name	Position / Title	Citizenship
Officers		
Crane, David	President and CEO	United States
Schade, Christian S.	Executive Vice President and Chief Financial Officer	United States
Baliff, Jonathan	Executive Vice President, Strategy	United States
Murphy, J. Andrew	Executive Vice President and President, Northeast Region	United States
Ragan, John	Executive Vice President and President, Texas Region	United States
Baudier, Jeff	Senior Vice President and President, South Central Region	United States
Hoffmann, Steve	Senior Vice President and President, West Region	United States
Ingoldsby, Jim	Senior Vice President and Chief Accounting Officer	United States
Wilson, Denise	Executive Vice President and Chief Administrative Officer	United States
Bramnick, Michael	Senior Vice President and General Counsel	United States
Gutierrez, Mauricio	Executive Vice President and Chief Operating Officer	Mexico
Directors		
Caldwell, Kirbyjon H.	Director	United States
Chlebowski, John	Director	United States
Coben, Lawrence	Director	United States
Cosgrove, Howard	Chairman and Director	United States
Crane, David	Director, President and CEO	United States
Cropper, Stephen	Director	United States
Hantke, William	Director	United States
Hobby, Paul	Director	United States
Luterman, Gerald	Director	United States
McGinty, Kathleen	Director	United States
Schaumburg, Anne	Director	United States
Tate, Herbert	Director	United States
Weidemeyer, Thomas	Director	United States
Young, Walter	Director	United States

STP 3 & 4**General and Financial Information****Table 1.2-3 Directors and Officers of NINA Texas 3 LLC, NINA Texas 4 LLC, and their Parent Companies**

Nuclear Innovation North America Investments LLC
 NINA Texas 3 LLC
 NINA Texas 4 LLC
 521 Fifth Avenue, 30th Floor
 New York, NY 10175

Name	Position	Citizenship
Winn, Steve <u>Seely, Jamey</u>	President and CEO	United States
Bates, John <u>McBurnett, Mark</u>	Chief Operating Nuclear Officer	United States
Chung, Bruce	Chief Financial Officer	United States
Seely, Jamey	General Counsel and Secretary	United States
Galvin, David	VP	United States
McBurnett, Mark	SVP Oversight & Regulatory Affairs	United States
Przychodzki, Lynne	Assistant Secretary	United States

STP 3 & 4**General and Financial Information****Table 1.2-4 Trustees and Senior Executive Team of CPS Energy**

City Public Service Board of San Antonio, Texas
(CPS Energy)
P.O. Box 1771
San Antonio, Texas 78296

Name	Position	Citizenship
Foster, Charles E. Howard, Derrick	Chair, Board of Trustees	US
Howard, Derrick Homer	Vice Chair, Trustee	US
Hennigan, Stephen S. Chavez, Nora W.	Trustee	US
Guevara, Homer Kelley, Edward	Trustee	US
Castro, Julian	Mayor; ex-officio Trustee	US
Beneby, Doyle	President and CEO	US
Moore, John	Exec VP	US
Shellman, Carolyn E.	Exec VP; Gen Counsel	US
Gold-Williams, Paula Y.	Exec VP; CFO	US
LeBlanc-Burley, Jelynn	Exec VP	US
Eugster, Cris	Exec VP	US
Peña, Richard	Senior VP	US
Kotara, Michael	Senior VP	US
Saenz, John James, Frederick A.	Senior VP	US

STP 3 & 4**General and Financial Information****Table 1.2-5 Directors and Officers of STP Nuclear Operating Company**

STP Nuclear Operating Company			
Name	Position	Citizenship	Address
Mele, Cheryl	Director	US	721 Barton Springs Road Austin, TX 78704
Ragan, John	Director	US	211 Carnegie Center 4301 McKinney, Suite 2300 1201 Fannin Houston, TX 770402
Peña, Richard	Director	US	145 Navarro San Antonio, TX 78205
Halpin, Ed	President & CEO, Chairman of the Board	US	PO Box 289 Wadsworth, TX 77483
Meier, Mike	VP Shared Services and <u>Assistant to the President &</u> <u>CEO</u>	US	PO Box 289 Wadsworth, TX 77483
Powell, Tim	VP Engineering <u>Technical</u> <u>Support & Oversight</u>	US	PO Box 289 Wadsworth, TX 77483
Rencurrel, Dave	Senior VP Units 1 & 2	US	PO Box 289 Wadsworth, TX 77483
Richards, Kevin	Group Senior VP, Units 3 & 4	US	PO Box 289 Wadsworth, TX 77483
<u>John Crenshaw</u>	<u>VP, New Plant Deployment and</u> <u>Special Projects</u>	<u>US</u>	<u>PO Box 289</u> <u>Wadsworth, TX 77483</u>
Nemeth, Peter	Board Secretary	US	1401 McKinney Street Suite 1700 Houston, TX 77010

STP 3 & 4**General and Financial Information****Table 1.2-6 Trade and News Publications**

Organization	Contact	Phone	Fax	E-mail
Bay City Tribune	Mike Reddell	979-245-5555	979-244-5908	news@baycitytribune.com mike.reddell@baycitytribune.com
Victoria Advocate	Allison Miles	361-580-6511	361-574-1220	amiles@vicad.com
Matagorda Advocate	Adriana Acosta Sandra Hudgeons	979-244-1330	979-244-1708	aacosta@vicad.com shudgeons@vicad.com
Brazosport Facts	Nathaniel Lukefahr	979-237-0151	979-265-7885	nathaniel.lukefahr@thefacts.com news@thefacts.com
El Campo Leader-News	Chris Barbee	979-543-3363	979-543-0097	cbarbee@leader-news.com
Palacios Beacon	Nick West Bert West	361-972-3009	361-972-2610	palaciosbeacon@gmail.com bert.palaciosbeacon@gmail.com
Houston Chronicle	Tom Fowler Laura Goldberg	713-220-7171	713-220-6806	tom.fowler@chron.com laura.goldberg@chron.com
Austin American Statesman	Kathy Warbelow	512-912-3500	512-445-3971	kwarbelow@statesman.com
Corpus Christi Caller Times	Fanny S. Chirinos	361-886-3759	361-886-3732	chirinosf@caller.com
San Antonio Express News	City Desk Craig Thomason	210-250-3000 210-250-3244	210-250-3105 210-250-3232	citydesk@express-news.net cthomason@express-news.net
Associated Press	Mike Graczyk	281-872-8900	281-872-9988	mgraczyk@ap.org
Houston Business Journal	Bill Schadewald	713-395-9634	713-968-8025 713-963-0482	bschadewald@bizjournals.com
Wall St. Journal	Angel Gonzalez	713-547-9214	713-547-9228	angel.gonzalez@dowjones.com
Reuters	Eileen O'Grady Eileen Moustakis	713-210-8522 646-223-6074	646-223-6079	eileen.ogrady@reuters.com eileen.moustakis@reuters.com
Dow Jones	Michael Rieke Kristen McNamara	713-227-5440 201-938-2061	713-547-9234	kristen.mcnamara@dowjones.com
Nuc Net	John Shepherd	+41-58-286-6111	+41-58-286-6845	john.shepherd@worldnuclear.org
Nucleonics Week	Jenny Weil Elaine Hiruo	202-383-2170 202-383-2163	202-383-2125	jenny_weil@platts.com elaine_hiruo@platts.com
Nuclear News	Rick Michal	708-579-8244	708-352-6464	rmichal@ans.org
Nuclear Plant Journal	Newal Agnihotri Michelle Gaylord	630-858-6161	630-858-8787	newal@goinfo.com michelle@goinfo.com
Nuclear Engineering International	Will Dalrymple	+44-20-8269-7773	+44-20-8269-7804	wdal@neimagazine.com
NEI	Scott Peterson Steve Kerekes	202-739-8044 202-739-8073	202-785-4113	jsp@nei.org sck@nei.org
Power Engineering	David Wagman	918.831.9866		pe-editor@pennwell.com
KIOX/KXGJ 96.9 FM	R. Zillarreal	713-315-3400		rzillarreal@lbimedia.com
KMKS 102.5 FM	Kay/Larry Sandlin	979-244-4242	979-245-0107	kmks@kmks.com
KTRH AM 740	Bryan Erickson	713-212-8812	713-212-8957	bryanerickson@clearchannel.com
KUHF 88.7 FM	Robert Stevenson	713-743-0887	713-743-1818	b Stevenson@kuhf.org
KZRC 92.5 FM	Ernie Cunnar	979-323-7771	708-671-1202	KZRC@KZRC.com
KAVU TV (Victoria Ch. 25)	Don Bradley	361.575.2500	361.575.2255	

STP 3 & 4**General and Financial Information****Table 1.2-6 Trade and News Publications (Continued)**

Organization	Contact	Phone	Fax	E-mail
KHOU TV (CBS 11)	Bill Bishop	713-521-4388	713-521-4381	news@khou.com
KNWS TV 51		713-974-5151	713-974-5188	
KPRC TV (NBC 2)	Ken Cockroft	713-778-4972	713-781-4930	kcockroft@kprc.com
KRIV TV (FOX 26)	Ruben Dominquez	713-479-2801	713-479-2859	newsdesk@fox26.com
KTRK TV (ABC 13)	Dave Strickland	713-663-4501	713-663-4648	dave.strickland@abc.com
Northland Cable TV for PSAs	Kelly Hermenitt	979-543-6858	979-543-9501	

STP 3 & 4

General and Financial Information

Table 1.3-1 Projected Total Project Costs for STP Units 3 and 4 (Proprietary)
[s5]



FINANCIAL AND COMMERCIAL

[e5]

STP 3 & 4

General and Financial Information

Table 1.3-2 Sources and Uses for STP Units 3 & 4 (Proprietary)

[s5]



[e5]

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Table 1.3-3 STP Units 3 & 4 O&M Costs for the First Five Years (Proprietary)

[s5]

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[e5]

STP 3 & 4

General and Financial Information

Table 1.3-4 Summary of PPA Agreements for STP Units 3 & 4 (Proprietary)

[s5]



FINANCIAL AND COMMERCIAL

[e5]

STP 3 & 4**General and Financial Information****Table 1.4-1 Report and Certification Regarding Decommissioning Funding Assurance**

The following reports the calculation of the formula amount as of December 31, 2009 for each of the two nuclear powered generating plants designated as STP 3 & 4, calculated in accordance with the provisions of 10 CFR 50.75(c) and the guidance provided in NUREG-1307, Rev. 13.

NRC MINIMUM CALCULATION (4Q 2009)
REACTOR TYPE / BASE COST
BWR
\$135,000,000

ESCALATION FACTOR	Labor	Energy		Waste (Waste Vendor)	
(0.65L + 0.13E + 0.22B)	South Regional Data	<u>Power</u>	<u>Fuel</u>	Barnwell (100%)	
	L = 4Q 2009 / 2005	P = 4Q 2009 / 1986	F = 4Q 2009 / 1986	B = 11.198	
	(110.7 x 1.98 / 100)	187.1 / 114.2	197.7 / 82		
	110.7	1.638	2.41098		
		E = (0.54P + 0.46F)			
		E = (0.54 x 1.638) + (0.46 x 2.41098)			
	2.192	1.9938		11.198	
0.65L + 0.13E + 0.22B) =	0.65 x 2.192	+	0.13 x 1.9938	+	0.22 x 11.198
(L + E + B) =	1.4248	+	0.259194	+	2.46356
Escalation Factor =	4.1474578				
Total Escalated Cost =	\$135,000,000	x 4.1474578	=	\$559,906,800	

The plant owners will annually adjust the minimum formula amount calculation in accordance with 10 CFR 50.75(b)(2).

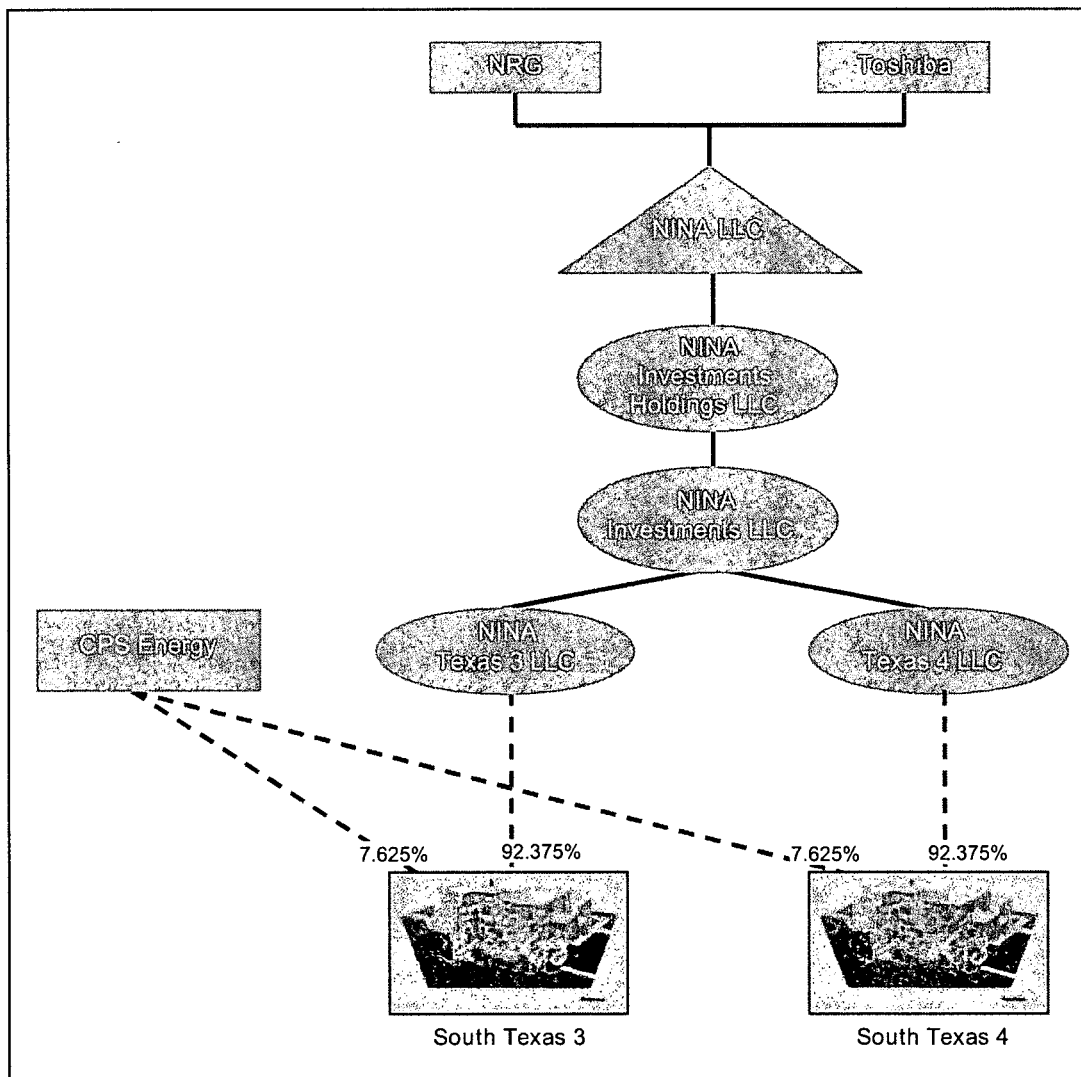
The plant owners hereby certify that, no later than 30 days after the Commission publishes a notice in the *Federal Register* under 10 CFR 52.103(a), they will provide decommissioning funding assurance using the methods in accordance with 10 CFR 50.75(e)(1), as described in COLA Part 1, Section 1.4, or as otherwise permitted by 10 CFR 50.75(e)(1) after having provided prior written notice to the NRC Staff of any proposed change(s) in the method of providing decommissioning funding assurance.

STP 3 & 4**General and Financial Information**

Table 1.4-1 Report and Certification Regarding Decommissioning Funding Assurance (cont'd)

They further certify that they will provide such funding assurance in amounts not less than the formula amount calculation. Each owner of a share in each unit will provide its *pro rata* share of the decommissioning funding assurance based upon the ratio of its percentage ownership share to the total formula amount for such unit. Taking into account credit for projected earnings on trust fund balances and annual contributions using a two percent real rate of return, as permitted by 10 CFR 50.75(e)(1), the annual funding for each plant would be expected to be in the range of \$12,000,000 per unit in current year dollars. However, the plant owners expect that actual annual contributions by CPS Energy will be established in connection with its setting of its own rates, and the actual annual contributions by NINA 3 and NINA 4 will be established in connection with proceedings to be conducted by the Public Utility Commission of Texas.

In addition, both two years and one year before the scheduled date of initial loading of fuel, and consistent with the schedule required by 10 CFR 50.75(e)(3), the plant owners will submit a report updating this certification and the information provided in this report, as well as a copy of the form(s) of financial instrument(s) to be used in providing assurance of funding for decommissioning (e.g., a decommissioning trust agreement for an external sinking fund).

STP 3 & 4**General and Financial Information****Figure 1.1-1 South Texas Units 3 and 4 Corporate Ownership Structure**

STP 3 & 4**Final Safety Analysis Report****1.4 Identification of Agents and Contractors**

The information in this section of the reference ABWR DCD, as modified by the STP Nuclear Operating Company Application to Amend the Design Certification rule for the U.S. Advanced Boiling Water Reactor (ABWR), "ABWR STP Aircraft Impact Assessment (AIA) Amendment Revision 3," dated September 23, 2010 is incorporated by reference, with the following site-specific supplement.

NINA is the licensee responsible for design and construction of STP 3 & 4. STPNOC is the licensee responsible for operation and maintenance of STP 3 & 4. The design and construction of STP 3 & 4 will be completed by a consortium of Toshiba America Nuclear Energy (Toshiba) and Stone & Webster, a wholly owned subsidiary of Shaw Group Incorporated, acting in conjunction with subcontractors including Westinghouse and Sargent & Lundy. Throughout this document the Consortium participant for the Shaw Group Inc. will be referred to as Shaw. Toshiba and Shaw will have overall responsibility for design and configuration control. Sargent & Lundy will provide architect/engineer services. Westinghouse will provide engineering services, including design of instrumentation and controls.

The measures taken to address the potential for foreign ownership, domination control or influence of the licensees are addressed in the Negation Action Plan provided as Appendix 1D.

1.4.4 Identification of Agents and Contractors - STP 3 & 4

NINA executed a contract for Engineering, Procurement, and Construction (EPC) of the facilities with a Consortium comprised of Toshiba and Stone & Webster, a wholly owned subsidiary of Shaw Group Incorporated. The Consortium will act as the ABWR provider and architect-engineer for STP Units 3 and 4. NINA, as the constructor of STP Units 3 and 4, has delegated responsibility for physical construction activities to the Consortium.

The design and construction of STP 3 & 4 will be completed by Toshiba and Shaw acting in conjunction with subcontractors including Westinghouse and Sargent & Lundy. Toshiba and Shaw will provide have overall responsibility for design and configuration control. Sargent & Lundy will provide architect/engineer services for the Nuclear Island. Westinghouse will provide engineering services, including design of instrumentation and controls.

Toshiba will provide is responsible for the overall plant design of the Nuclear Island, procurement of primary NSSS equipment and power block major components including the Turbine Generator, and plant training simulator. Subcontractors will provide Shaw is responsible for site development, overall plant design of the Turbine Island, construction, site specific design related work, secondary equipment procurement, module fabrication, and supply of bulk materials and commodities. Toshiba and Shaw are jointly responsible for testing and startup.

STP 3 & 4**Final Safety Analysis Report****1.4.4.1 Nuclear Innovation North America LLC**

NINA was formed in 2008. Its focus is to market and promote ABWR nuclear technology, and to develop and construct ABWR nuclear power generation facilities in the U.S. NINA assumed responsibility for the design and construction of STP 3 & 4 in 2011. It organized itself for this purpose by transitioning the previously existing STPNOC organization responsible for the development of STP 3 & 4 from STPNOC to NINA. This transition included the programs, processes and procedures developed by STPNOC for STP 3 & 4. NINA's STP 3 & 4 organization is focused on the design and construction of STP 3 & 4 and coordination with STPNOC for the operation of STP 3 & 4. After the 10CFR52.103(g) finding or authorization for interim operation pursuant to 10CFR52.103(c) is issued, NINA will provide services to STPNOC to support completion of construction.

1.4.4.2 STP Nuclear Operating Company

STPNOC is the operator and license holder of STP 1 & 2 and will be the operator and license holder for STP 3 & 4 upon issuance of the 52.103(g) finding or authorization for interim operation pursuant to 10 CFR 52.103(c). During the construction period STPNOC will provide services to NINA that support the implementation of the Operational Programs and system operations during the test program.

1.4.4.3 Toshiba Power Systems Company

Toshiba Power Systems Company is responsible for the Engineering, Procurement, and Construction (EPC) of STP Units 3 & 4. In this capacity Toshiba has overall project management responsibility for the design and construction of the facility, including support of the Combined License Application (COLA), in conjunction with the subcontractors described below.

Toshiba has extensive experience in the design, construction, and commissioning of the Advanced Boiling Water Reactor (ABWR) worldwide, having participated in the development of the common engineering documents, design of the ABWR systems, and construction of three ABWRs in Japan. The first ABWR plant, Kashiwazaki-Kariwa Unit No. 6, commenced commercial operation in 1996, followed by Unit No.7 in 1997, and Hamaoka Unit No. 5 in January 2005.

1.4.4.4 Shaw Group Inc.

Shaw Group Incorporated, as part of the Consortium, is responsible for the Engineering, Procurement, and Construction (EPC) of STP Units 3 & 4. In this capacity Shaw with Toshiba has overall project management responsibility for the design and construction of the facility, including support of the Combined License Application (COLA), in conjunction with the subcontractors described below.

Shaw is a Fortune 500 company which has been an active participant in the nuclear industry for nearly 60 years, from providing engineering and design services for Shippingport, the nation's first commercial nuclear power plant, to the restart of Tennessee Valley Authority's Browns Ferry Unit 1, which at the time was the largest nuclear construction project in the western hemisphere. Shaw continues to prove its

STP 3 & 4**Final Safety Analysis Report**

leadership role in the nuclear industry by being part of the AP1000 Consortium. Shaw is part of a vertically integrated company, Shaw Group, Inc., which has nearly 180 offices worldwide and over 28,000 employees, of which approximately 3,100 are nuclear professionals offering nuclear services on four continents.

1.4.4.5 ~~1.4.4.4~~ Westinghouse Electric Corporation

Westinghouse Electric Corporation (WEC) has significant experience in the design, construction, inspection and maintenance of domestic and international nuclear power plants.

1.4.4.6 ~~1.4.4.5~~ Sargent & Lundy

Sargent & Lundy provides engineering services for STP 3 & 4, specifically the design of the Nuclear Island, including the Reactor Building, Control Building, Radwaste Building and Ultimate Heat Sink.

For more than 100 years Sargent & Lundy has provided comprehensive consulting, engineering, design, and analysis for electric power generation and power delivery projects worldwide. Sargent & Lundy has a large, highly experienced staff solely dedicated to the energy business.

1.4.4.7 ~~1.4.4.6~~ Other Contractors

Several specialized consultants assisted in developing the COLA.

1.4.4.7.1 ~~1.4.4.6.1~~ Tetra Tech NUS, Inc.

Tetra Tech NUS, Inc. performed data collection and analysis, and prepared sections of the Final Safety Analysis Report (FSAR) and Environmental Report (ER), including socioeconomics/demographics, ecology and ecological impacts of construction and operation, land and water use impacts of construction and operation, transmission system impacts of construction and operation, radiological impacts of operation, uranium fuel cycle and transportation of radioactive materials impacts, and environmental impacts of postulated accidents.

Tetra Tech NUS, Inc. has prepared sections of the FSAR and ER for several Early Site Permit (ESP) and COLAs, including the North Anna and Vogtle ESP applications, and the V.C. Summer and Calvert Cliffs COLAs. In addition, Tetra Tech NUS has prepared ERs for license renewal applications for more than 30 nuclear plants.

1.4.4.7.2 ~~1.4.4.6.2~~ MACTEC Engineering and Consulting, Inc.

MACTEC Engineering and Consulting, Inc. (MACTEC) performed geotechnical field investigations and laboratory testing in support of FSAR Section 2.5, Geology, Seismology, and Geotechnical Engineering. That effort included performing standard penetration tests; obtaining core samples and rock cores; performing cone penetrometer tests, cross-hole seismic tests, and laboratory tests of soil and rock samples; installing ground water observation wells; and preparing a data report.

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MACTEC has implemented subsurface site geotechnical investigations for several projects. These include the Vogtle and North Anna ESP applications, and the V.C. Summer, North Anna, and Vogtle COLAs. MACTEC is also involved with other ESP applications and COLAs presently being developed.

1.4.4.7.3 ~~1.4.4.6.3~~ William Lettis & Associates, Inc.

William Lettis & Associates, Inc. (WLA) performed geologic mapping and the characterization of seismic sources in support of FSAR Section 2.5, including literature review, geologic field reconnaissance, review and evaluation of existing seismic source characterization models, identification and characterization of any new or different sources, and preparation of the related FSAR sections.

WLA has implemented geologic reconnaissance investigations and research to support ESP applications and COLAs for several projects. These include the Vogtle and North Anna ESP applications, and the Calvert Cliffs and V.C. Summer COLAs. WLA is also involved with other ESP applications and COLAs presently being developed.

1.4.4.7.4 ~~1.4.4.6.4~~ Risk Engineering, Inc.

Risk Engineering, Inc. (REI) performed probabilistic seismic hazard assessments and related sensitivity analyses in support of FSAR Section 2.5. These assignments included sensitivity analyses of seismic source parameters and updated ground motion attenuation relationships, development of updated safe shutdown earthquake ground motion values, and preparation of the related FSAR sections.

REI has performed probabilistic seismic hazard analyses to support ESP applications and COLAs for several projects. These include the Vogtle and North Anna ESP applications, and the Calvert Cliffs, V.C. Summer, and North Anna COLAs. REI is also involved with other ESP applications and COLAs presently being developed.

1.4.4.7.5 ~~1.4.4.6.5~~ Bechtel Corporation

Bechtel supports project licensing primarily with regard to the ER and site characterization. Bechtel, headquartered in San Francisco, is the nation's largest power contractor. Bechtel has a history of supporting the nuclear power industry, beginning with the construction in 1950 of the EBR-1 reactor. Since then, Bechtel has engineered and constructed more than 60,000 MWe of nuclear power capacity worldwide. Currently, Bechtel has 40,000 employees and has completed 22,000 projects in 140 different countries around the globe.

STP 3 & 4**Final Safety Analysis Report****1D Negation Action Plan¹****1D.1 Introduction**

- (a) The following Negation Action Plan (the Plan) provides requirements and guidance to ensure negation of potential foreign ownership, control or domination (FOCD) over the South Texas Project, Units 3&4 (STP 3&4) licenses held by Nuclear Innovation North America, LLC (NINA), STP Nuclear Operating Company (STPNOC), NINA Texas 3 LLC (NINA 3), NINA Texas 4 LLC (NINA 4), and the City of San Antonio, Texas, acting by and through the City Public Service Board (CPS Energy). This Plan implements measures to fully negate FOCD with respect to matters involving the nuclear safety, security, and reliability of STP 3&4 throughout the design, construction and operation of STP 3&4. The same measures negate potential foreign influence.
- (b) The Plan describes the controls implemented to assure that the governance of NINA and licensed activities undertaken by NINA, NINA 3, NINA 4, and STPNOC are not subject to FOCD within the meaning of 10 CFR 50.38 and Section 103.d of the Atomic Energy Act of 1954, as amended (Section 103.d of the Act).
- (c) STPNOC is responsible for the operation of STP 3&4. STPNOC is a not for profit Texas corporation that is controlled by a board of four directors, three members of which are appointed by the City of Austin (Austin), CPS Energy, and NRG South Texas LP, an indirect wholly owned subsidiary of NRG Energy. These three directors choose the fourth director, who then also serves as the Chief Executive Officer (CEO) of STPNOC. Austin and CPS Energy are governmental organizations in the State of Texas that are controlled by city councils elected by the citizens of these U.S. cities. NRG Energy is a publicly traded, widely held U.S. corporation, and it is not under FOCD. STPNOC is subject to U.S. control, and it will exercise authority over nuclear safety, security and reliability matters free from any potential for foreign domination or control over its decision making in any area of concern to the NRC under 10 CFR 50.38 and Section 103.d of the Act.
- (d) NINA owns and controls both NINA 3 and NINA 4; it also will exercise control over its other subsidiaries involved in the development of STP 3&4. NINA 3, NINA 4 and CPS Energy own STP 3&4, and these owners are responsible for providing the funding for construction, operation and decommissioning of STP 3&4. Pursuant to arrangements among the owners, the owners have allocated primary responsibility for funding construction activities to NINA 3 and NINA 4.

¹ This Negation Action Plan describes the measures to be implemented based upon the planned execution of the Fourth Amended and Restated Operating Agreement of Nuclear Innovation North America, LLC, and the measures described are fully effective only upon such execution.

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NINA is the lead applicant and lead licensee responsible for design and construction of each unit until the date on which the Commission makes a finding that acceptance criteria are met under 10 CFR 52.103(g) or allowing operation during an interim period under the combined license under 10 CFR 52.103(c), at which point STPNOC will be the lead licensee responsible for operations.

- (e) This Plan has been developed using the guidance provided by the NRC's "Final Standard Review Plan on Foreign Ownership, Control, or Domination," 64 FR 52355 (September 28, 1999) (FOCD SRP). Defense in depth is provided through a number of measures in order to ensure that there is U.S. control over matters relating to nuclear safety, security and reliability, including most significantly the NINA security programs and NINA safety programs, including Quality Assurance. These measures effectively negate the risk that NINA's foreign owned parent company or companies or foreign lenders might exercise control, domination, or influence over matters that are required to be under U.S. control pursuant to the terms of 10 CFR 50.38 and Section 103.d of the Act.
- (f) The negation measures are implemented primarily through the terms of the Fourth Amended and Restated Operating Agreement of Nuclear Innovation North America, LLC (the NINA LLC Agreement). Additional requirements and further details regarding implementation of the negation measures are included in this Plan.
- (g) The terms of the NINA LLC Agreement provide that a Security Subcommittee of the NINA Board will be established not later than the first pouring of any safety related concrete for STP 3&4. The Security Subcommittee has the exclusive right to exercise the Board's authority over the matters that are required to be under U.S. control. The Security Subcommittee is made up of U.S. citizens, the majority of whom must be independent directors, who are not employed by NINA, its subsidiaries, its owners, or any of their affiliates. Until the Security Subcommittee is established, the Chief Executive Officer (CEO) of NINA will perform the functions of the Security Subcommittee, except the right to approve a new CEO.
- (h) The governance measures implemented for NINA flow through to the actions of NINA 3 and NINA 4, pursuant to requirements imposed through the governance arrangements for these entities and their parent companies. These entities have adopted provisions to assure that the NINA Security Subcommittee exercises ultimate control and direction over matters required to be under U.S. control.
- (i) In addition, NINA will also establish a Nuclear Advisory Committee (NAC), prior to pouring any safety related concrete for STP 3&4. The NAC is made up of a group of independent U.S. citizens who are

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experienced in national security and nuclear safety matters, provide an oversight function to advise NINA regarding its ongoing compliance with the FOCD restrictions imposed by U.S. law and NRC regulation. If necessary, the NAC can alert the U.S. Government regarding issues involving potential non-compliance with the applicable requirements.

- (j) NINA's security programs, including its Safeguards Information Program, assure that only authorized persons are provided access to security related information in accordance with applicable program requirements, and this Plan provides measures to assure that interpretation and implementation of those program requirements are administered under U.S. control. NINA does not possess or control access to restricted data or classified national security information. NINA is not aware of any personnel assigned to NINA (contract personnel, including employees loaned from STPNOC) that are currently maintaining security clearances that would authorize access to restricted data or classified national security information. To the extent that any NINA contract personnel may obtain security clearances in the future or that NINA may hire contract employees that maintain security clearances, such personnel would do so subject to the requirements of security programs controlled by their employer companies and not controlled by NINA. NINA will not interfere with the administration of such programs by other companies, and NINA will require that its personnel comply with all applicable requirements relating to such information.
- (k) Upon acceptance of this Plan, changes to this Plan may only be made upon the recommendation of NINA's CEO or upon the recommendation of STPNOC's CEO, and approval of the NINA Security Subcommittee. However, any proposed change that would result in a decrease in the effectiveness of this Plan will not be implemented without the prior approval of the NRC. This Plan also will be subject to the reporting requirements applicable to the FSAR.
- (l) Certain FOCD negation measures described in this Plan have been implemented in the NINA LLC Agreement, because it provides for the governance of NINA. NINA will provide NRC with 30 days prior written notice before implementing any material changes to the FOCD negation measures in the NINA LLC Agreement.

1D.2 Governance of Nuclear Innovation North America, LLC

- (a) NINA is a Delaware limited liability company. NINA is currently owned approximately 89.5% by NRG Energy and 10.5% by Toshiba America Nuclear Energy Corporation (Toshiba America Nuclear), a Delaware corporation. Toshiba America Nuclear is a wholly owned subsidiary of Toshiba America, Inc., a Delaware corporation, which is a wholly owned subsidiary of Toshiba Corporation, a Japanese corporation (together, with its U.S. subsidiaries, referred to as the Toshiba Companies).

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Stone & Webster Inc. (S&W), a Louisiana corporation, has the right to acquire an ownership interest in NINA from NRG Energy, which would reduce NRG Energy's interest in NINA. S&W is a wholly owned subsidiary of The Shaw Group Inc., a Louisiana corporation, which is publicly traded on the New York Stock Exchange.

- (b) The ownership percentages of the owners can change over time based upon S&W exercising their options to acquire ownership interests or based upon equity contributions by the members being made to fund NINA activities in amounts that are disproportionate to the ownership interests of the members. If this occurs, the interests of one or more members may be reduced through dilution, whereas the interests of one or more other members may be increased through accretion. In addition, one or more of the owners may extend credit or otherwise make loans to NINA. However, such arrangements would not affect ownership percentages or voting rights under the terms of the NINA LLC Agreement.
- (c) To allow for flexibility regarding NINA's ownership structure, this plan assumes that the NINA ownership structure could include having a foreign owner or combination of foreign owners with ownership shares that are substantially greater than 50%, but NINA will assure that U.S. owners at all times hold at least 10% of the equity of NINA. NINA will provide prior notice to the NRC regarding any material changes in NINA's ownership or the ownership of NINA 3 or NINA 4. In any event, the negation measures of this Plan will nevertheless assure U.S. control over matters that are required to be under U.S. control. This will negate the risk of the STP 3&4 licenses being subject to potential FOCD within the meaning of 10 CFR 50.38 and Section 103.d of the Act.

1D.2.1 NINA Board of Directors

- (a) The business and affairs of NINA are and will be managed under the direction of a Board of Directors (Board), consisting of member appointed directors (Member Directors) including a director to act as Chairman, and two independent directors, who are selected and appointed by the Member Directors. The Chairman is selected by the Member Directors from among their number. The Chairman presides over the meetings of the Board, and otherwise fulfills the functions of the Chairman. The Chairman, and anyone acting for the Chairman, must be a U.S. citizen.
- (b) The NINA LLC Agreement provides that two independent directors, who must be U.S. citizens, are selected and appointed by the Member Directors. The independent directors are appointed for a one year term, ending January 31 of each calendar year. However, independent directors may be reappointed year after year. These directors are independent because they may not be officers or employees of NINA, any of its subsidiaries, any of its owners, or any of their affiliated

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companies. The independent directors and their immediate family members may not have a material relationship with NINA, its subsidiaries, or its parent companies, or their affiliates, such as by being an executive officer or employee, by receiving pension benefits or other compensation for prior service, or by being an executive officer of another company that receives significant revenue from NINA or its affiliates. In accordance with generally accepted practices, the independent directors may receive compensation from NINA for their services as directors.

- (c) If any independent director acquires any material ownership or other economic interest in NINA, its subsidiaries, its owners, or any of their affiliated companies, this will be reported to NINA and to the NRC. It is possible that the independent directors may have investment holdings such as in mutual funds or other similar types of pooled investments that themselves may make a wide range of investments that could include investments in issuances of NINA, its subsidiaries, its owners, or their affiliated companies. Given the impracticality of monitoring and/or limiting such investments, it is NINA's intention that such investments would not be considered "material." Direct holdings in securities, bonds or other issuances of NINA, its subsidiaries, its owners, or their affiliated companies would be considered material and reportable.
- (d) Significantly, the Chairman and the two independent U.S. citizen directors serve on a Security Subcommittee, which has been assigned "exclusive authority" to vote upon and decide for the Board all matters coming before the Board that relate to nuclear safety, security or reliability. In addition, any matter that must be decided under U.S. control can be elevated to the Security Subcommittee, and mechanisms have been established to provide for such matters to be elevated to the Security Subcommittee when necessary. The details of this authority are described further below in Section 2.2 of this Plan.
- (e) The Board as a whole has been delegated authority to decide various matters, notwithstanding any delegations of authority to the CEO and other officers. Ordinarily, the Board as a whole would decide these matters which are listed in Section 5.1(a) of the NINA LLC Agreement. However, this reserved authority is itself subject and subordinate to the exclusive authority of the Security Subcommittee. Thus, if U.S. control must be exercised over a Section 5.1(a) matter, such matter would be decided by the Security Subcommittee.
- (f) The Board may delegate authority to the CEO and other executive personnel of the company. It also benefits from the advice and oversight of the members of the Nuclear Advisory Committee, who have substantial expertise in national security and nuclear safety

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matters, the details of which are described further below in Section 2.4 of this Plan.

1D.2.2 Security Subcommittee

- (a) The NINA LLC Agreement provides for a broad delegation of exclusive authority to the Security Subcommittee, in order to assure that the U.S. citizen directors, including the Security Subcommittee's majority of independent directors, have the ultimate authority to make the corporate decisions for NINA regarding: (1) any matter that is to be brought before the Board, where U.S. legal and regulatory requirements direct that the matter must be decided under U.S. control; or (2) any matter that ordinarily might be decided by corporate officers, but where there is a concern that decision making regarding the matter may be subject to foreign control or influence, and U.S. legal and regulatory requirements direct that the matter must be decided under U.S. control. The Board and Security Subcommittee delegate authority over the day to day management of the affairs of NINA to its executive personnel. However, as discussed further below, the NINA governance is structured to ensure that the required U.S. control over matters of safety, security and reliability is not circumvented by having such issues decided without consultation with and oversight by the Security Subcommittee, whenever necessary.
- (b) Section 5.1(e) of the NINA LLC Agreement provides that the Security Subcommittee has and shall exercise the exclusive authority of the Board to vote and decide the following matters:
 - (A) Any matter that, in view of U.S. laws or regulations, requires or makes it reasonably necessary to assure U.S. control;
 - (B) Any matter relating to nuclear safety, security or reliability, including, but not limited to, the following matters:
 - (1) Implementation or compliance with any NRC generic letter, bulletin, order, confirmatory order or similar requirement issued by the NRC;
 - (2) Prevention or mitigation of a nuclear event or incident or the unauthorized release of radioactive material;
 - (3) Placement or restoration of the plant in a safe condition following any nuclear event or incident;
 - (4) Compliance with the Atomic Energy Act of 1954 (as in effect from time to time), the Energy Reorganization Act of 1974 (as in effect from time to time), or any NRC rule;

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- (5) The obtaining of, or compliance with, a specific license issued by the NRC and its technical specifications;
 - (6) Conformance with a specific Final Safety Analysis Report, or other licensing basis document; and
 - (7) Implementation of security plans and procedures, control of security information, control of special nuclear material, administration of access to controlled security information, and compliance with government clearance requirements regarding access to restricted data;
 - (C) Any other issue reasonably determined by a majority of the members of the Security Subcommittee in office, in their prudent exercise of discretion, to be an exigent nuclear safety, security or reliability issue; and
 - (D) Appointment of any successor CEO of the Company and, if one is appointed, Chief Nuclear Officer of the Company, in each case as nominated by the Board.
- (c) The provisions of Section 5.1(e)(ii)(C) make clear that this broad authority includes the authority for the Security Subcommittee to decide that a matter involves an issue that must be decided under U.S. control and therefore must be brought before and decided by the Security Subcommittee.
- (d) In order to assure that control would be exercised by U.S. citizens who are independent from any foreign entities, Section 5.1(e)(iii) of the NINA LLC Agreement provides that the attendance and participation of the two independent U.S. citizen directors is required to constitute the required quorum for the Security Subcommittee to conduct business.
- (e) The ordinary affairs of NINA are managed day to day by the company's executive personnel and managers and supervisors. The Board and the Security Subcommittee have delegated authority to the company's executive personnel, but such delegation is subject to limitations including the ultimate authority of the Board and the Security Subcommittee to make decisions for NINA when necessary. In order to assure that such day to day issues do not fall subject to FOCD in a way that would circumvent the intended U.S. control and authority of the Security Subcommittee, the NINA LLC Agreement provides for a variety of mechanisms by which such issues could be raised and put before the Security Subcommittee, if necessary. Section 5.1.(e)(iv) of the NINA LLC Agreement provides that a Special Meeting of the Security Subcommittee shall be conducted where a request is made that a matter be considered by the Security Subcommittee. Such a request (requiring a Special Meeting for consideration of the matter) may be

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made by: (A) the CEO; (B) any member of the Security Subcommittee; (C) the NAC; or (D) the Board.

- (f) Thus, if a circumstance were to arise where an officer or manager had questions about potential foreign control, domination or influence over a matter, the issue could simply be raised within the NINA organization for further review and consideration. Ultimately, the CEO would be in a position to assess whether the matter was being properly decided free from any inappropriate foreign control, domination or influence, or if the concern should be referred so that the matter would be brought before the Security Subcommittee. The CEO's role in this regard is described further below in Section 2.3.

- (g) In order to underscore the special role undertaken by the Security Subcommittee, the NINA LLC Agreement provides that each member execute a certificate acknowledging the protective measures undertaken by NINA, as reflected in this Plan. The certificate provides as follows:

By execution of this Certificate, I acknowledge the protective measures that have been taken by Nuclear Innovation North America LLC ("NINA") through adoption and implementation of the provisions of Section 5.1(e) of its Fourth Amended and Restated Limited Liability Company Agreement ("Agreement"), in order to protect against and negate the potential of any foreign ownership, control or domination of NINA within the meaning of 10 CFR 50.38 and Section 103.d of the Atomic Energy Act of 1954, as amended.

I further acknowledge that the United States Government has placed its reliance on me as a United States citizen to exercise all of the responsibilities provided for in Section 5.1(e) of the Agreement; to assure that members of the NINA Board of Directors, the officers of NINA, and the employees of NINA comply with the provisions of Section 5.1(e) of the Agreement; and to assure that the Nuclear Regulatory Commission is advised of any violation of, attempt to violate, or attempt to circumvent any of the provisions of Section 5.1(e) of the Agreement, of which I am aware.

- (h) In order to underscore the special role of the CEO in assisting the Security Subcommittee, the NINA LLC Agreement provides that the CEO execute a certificate acknowledging the protective measures undertaken by NINA, as reflected in this Plan. The certificate provides as follows:

By execution of this Certificate, I acknowledge the protective measures that have been taken by Nuclear Innovation North America LLC ("NINA") through adoption and implementation of the provisions of Section 5.1(e) of its Fourth Amended and Restated Limited Liability

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Company Agreement ("Agreement"), in order to protect against and negate the potential of any foreign ownership, control or domination of NINA within the meaning of Section 103 of the Atomic Energy Act of 1954, as amended.

I further acknowledge that I have a special role to assist in assuring that the Security Subcommittee is able to fulfill its responsibilities in accordance with Section 5.1(e) of the Agreement, and acknowledge that the United States Government has placed its reliance on me as a United States citizen to exercise my best efforts to refer matters for consideration by the Security Subcommittee, as necessary and appropriate, so that the Security Subcommittee can exercise all of the responsibilities provided for in Section 5.1(e) of the Agreement; to assure that members of the NINA Board of Directors, the officers of NINA, and the employees of NINA comply with the provisions of the Section 5.1(e) of the Agreement; and to assure that the Nuclear Regulatory Commission is advised of any violation of, attempt to violate, or attempt to circumvent any of the provisions of Section 5.1(e) of the Agreement, of which I am aware.

- (i) Until the Security Subcommittee is established, the CEO will perform the functions of the Security Subcommittee, except the authority to approve a new CEO. In order to underscore the interim role of the CEO in performing the functions of the Security Subcommittee, the NINA LLC Agreement provides that the CEO execute a certificate acknowledging the protective measures undertaken by NINA, as reflected in this Plan. The certificate provides as follows:

By execution of this Certificate, I acknowledge the protective measures that have been taken by Nuclear Innovation North America LLCC (NINA) through adoption and implementation of the provisions of Section 5.1(e) of its Fourth Amended and Restated Limited Liability Company Agreement ("Agreement"), in order to protect against and negate the potential of any foreign ownership, control or domination of NINA within the meaning of Section 103 of the Atomic Energy Act of 1954, as amended. In particular, until the two (2) independent Directors are appointed to form the Security Subcommittee, the Chief Executive shall exercise the authority of the Security Subcommittee, except for the authority provided for in Section 5.1(d)(ii)(D) which shall be exercised by the Chairman.

I further acknowledge that the United States Government has placed its reliance on me as a United States citizen to exercise all of the responsibilities provided for in Section 5.1(e) of the Agreement; to assure that members of the NINA Board of Directors, the officers of NINA, and the employees of NINA comply with the provisions of Section 5.1(e) of the Agreement; and to assure that the Nuclear Regulatory Commission is advised of any violation of, attempt to

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violate, or attempt to circumvent any of the provisions of Section 5.1(e) of the Agreement, of which I am aware.

1D.2.3 Executive Personnel of NINA

- (a) The CEO of NINA is nominated by the Board, but both the CEO and Chief Nuclear Officer (CNO) of NINA, if one is appointed, must be approved by the Security Subcommittee in accordance Section 5.1(f) of the NINA LLC Agreement. The NINA CEO, and anyone acting for the NINA CEO, must be a U.S. citizen. The NINA CNO, if one is appointed, also must be a U.S. citizen.
- (b) Section 5.2 of the NINA LLC Agreement provides that, subject to the control of the Board, the CEO and other Executive Personnel shall "have such authority and perform such duties as the Board may delegate to them." To the extent authority regarding the affairs of NINA is further delegated by the Board to the CEO and other executive personnel, the CEO assures that U.S. control is maintained over nuclear safety, security and reliability issues.
- (c) NINA programs governing security issues, safeguards information, or access to security information are overseen by U.S. citizen managers who report to the CEO. Access and participation in these programs by foreign persons would be permitted only in full compliance with all program requirements. Oversight of these programs and determinations regarding such requirements are and will be subject to U.S. authority and control, because the CEO exercises management authority over such programs, subject only to the ultimate authority of the Security Subcommittee.
- (d) In addition, the Vice President, Oversight and Regulatory Affairs (VP Oversight) ensures U.S. control and oversight of nuclear safety issues through control of the Quality Assurance (QA) Program. The VP Oversight reports directly to and is responsible to the CEO. Through QA audits NINA assures that contractors and subcontractors to it and its subsidiaries conduct nuclear safety related activities in accordance with the QA Program, without regard to whether such activities are undertaken by U.S. citizens or by foreign persons, and without regard to whether such activities are performed within the United States or in another country. The requirements of the QA Program assure that all activities are performed consistent with U.S. requirements imposed upon a licensee or applicant for a license. The QA Program also governs activities internal to NINA and its subsidiaries or affiliates. As such, overall control of the QA Program and imposition of QA Program requirements as required by U.S. law and regulation assures that

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ultimate U.S. control over nuclear safety is maintained without regard to where activities are performed or who performs them.

- (e) In the event that any foreign control, domination or influence may be exercised with the potential to disrupt this U.S. control over nuclear safety, security and reliability issues, the NINA CEO would assure U.S. control by taking one or more of the following actions: (1) raising the U.S. control issue with the foreign persons involved and resolving the matter to the satisfaction of the CEO; (2) consulting with the NAC to obtain advice regarding whether or not U.S. control is required and, if so, regarding the appropriate options to consider for resolving the matter consistent with the requirements of the U.S. government; and (3) referring the matter for resolution by the Security Subcommittee. If a matter is referred to the Security Subcommittee by the NAC or the CEO, Section 5.1(e)(iv) of the NINA LLC Agreement requires that the Security Subcommittee conduct a special meeting to consider the matter. It is expected that the Security Subcommittee would first decide whether or not the matter is one that must be decided under U.S. control and, if so, the Security Subcommittee would vote and decide the matter for the NINA Board.
- (f) NINA is not aware of any NINA personnel who currently maintain security clearances with the U.S. government, authorizing their access to classified national security information. It is possible that, in the future, NINA may retain services from contract personnel who obtain or maintain security clearances. However, any such security clearances would be maintained through other companies, which maintain and control their programs to assure compliance with applicable U.S. security requirements and restrict access to such information to only those persons who have been specifically cleared by the U.S. government. The actions of the personnel involved and possession and control of such classified information would be controlled by such other companies and their applicable programs. These programs would not be controlled by NINA, but rather the companies that control these programs would be subject to ongoing oversight by the U.S. government regarding control of these programs free from foreign control, domination or influence. NINA will assure that its personnel comply with all applicable requirements, and it will not provide any direction to its personnel that conflict with their applicable obligations to other companies and their programs regarding such classified information.
- (g) In the future, if it becomes necessary or desirable for NINA to maintain its own independent Facility Security Clearance for purposes of governing security clearances to be issued to NINA personnel, NINA would undergo appropriate security reviews prior to being given control (as a corporation) over restricted data or classified national security information. NINA would comply with the requirements of the National

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Industrial Security Operating Manual, DoD 5220.22-M (February 28, 2006), including the specific applicable requirements relating to foreign ownership, control and influence (FOCI) and submission of the required "Certificate Regarding Foreign Interests" using Standard Form 328 (SF 328). Currently, however, NINA does not exercise any control over access to restricted data or classified national security information.

1D.2.4 Nuclear Advisory Committee

- (a) NINA has provided for a Nuclear Advisory Committee ("NAC") pursuant to Section 5.1(f) of the NINA LLC Agreement. The NAC will be established prior to any pouring of safety related concrete for STP 3 & 4. The NAC members serve in a non voting capacity to provide transparency to the NRC and other U.S. governmental authorities regarding FOCD matters impacting NINA. The NAC members serve two year terms and may be reappointed by the Board. In addition to routine advice, the NAC members prepare an annual report to the Board advising on whether NINA is subject to FOCD and whether the Security Subcommittee has been able to exercise its decision-making authority. The NAC also advises whether additional measures should be taken to ensure that NINA and its subsidiaries are in compliance with U.S. laws and regulations regarding FOCD. These reports are available for inspection by the U.S. Nuclear Regulatory Commission.
- (b) NINA will adopt a Charter for the NAC, and the Charter itself will be reviewed from time to time to include revisions and improvements upon the advice of the NAC. The principal purposes of the NAC are to:
- Provide transparency to the U.S. Nuclear Regulatory Commission and other U.S. government authorities regarding the implementation of the provisions of Section 5.1(e) of the NINA LLC Agreement providing for authority of the Security Subcommittee over certain matters in order to protect against and negate the potential for any foreign ownership, control or domination of NINA within the within the meaning of 10 CFR 50.38 and Section 103.d of the Act. This includes not only NINA's activities as the licensee responsible for construction, but also the activities of NINA 3 and NINA 4 as owner licensees, including the role of NINA 3 and NINA 4 with respect to the activities of STPNOC as the operating licensee.
 - Advise and make recommendations to the Board whether measures additional to those already in place should be taken to ensure that: (i) NINA is in compliance with U.S. laws and regulations regarding foreign ownership, control, domination or influence including those related to non-proliferation and fuel cycle matters, and (ii) action by a foreign government or foreign corporation could not adversely affect or interfere with the reliable and safe operations of the nuclear assets of NINA, its

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subsidiaries, and affiliates ("(i)" and "(ii)" collectively, the "FOCD Matters"), and to provide reports and supporting documentation to the Board relating to such FOCD Matters on at least an annual basis, no later than November 30 of each year. A copy of this report is also provided to the CEO of STPNOC.

- (c) The NAC provides ongoing independent assessment of FOCD matters and provides advice to the CEO and the Board regarding FOCD matters. The NAC is available for consultations with the CEO or Security Subcommittee members at any time. However, the NAC also conducts regularly scheduled meetings not less frequently than quarterly.
- (d) The NAC members will be selected based upon their having substantial expertise in security and nuclear safety matters and ability to serve as a valuable resource to NINA and its senior management in assuring compliance with FOCD requirements.

1D.2.5 NINA's Role as Licensee Responsible for Design and Construction

- (a) NINA will be the licensee responsible for the design and construction of STP 3 & 4, which will be owned by CPS, NINA 3, and NINA 4. NINA 3 and NINA 4 are entities that are and will be owned and controlled by NINA through its intermediary holding company subsidiaries.
- (b) NINA will perform its role pursuant to a licensing, design and construction services agreement with NINA 3 and NINA 4. The licensing, design and construction services agreement will clearly delineate NINA's authority with respect to design and construction, the authority of NINA 3 and NINA 4 with respect to financial decisions, and the obligation of NINA 3 and NINA 4 to pay for the costs of construction. Significantly, these terms will make clear that NINA, as the licensee responsible for design and construction, will have sole authority to make all decisions and to take all actions necessary or useful, with respect to, *inter alia*, the following:

Any matter relating to nuclear safety, security or reliability, including, but not limited to, the following matters:

- (i) Implementation or compliance with any NRC generic letter, bulletin, order, confirmatory order or similar requirement issued by the NRC;
- (ii) Prevention or mitigation of a nuclear event or incident or the unauthorized release of radioactive material;
- (iii) Placement or restoration of the plant in a safe condition following any nuclear event or incident;

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- (iv) Compliance with the Atomic Energy Act of 1954 (as in effect from time to time), the Energy Reorganization Act of 1974 (as in effect from time to time), or any NRC rule;
 - (v) The obtaining of, or compliance with, a specific license issued by the NRC and its technical specifications;
 - (vi) Conformance with a specific Final Safety Analysis Report, or other licensing basis document; and
 - (vii) Implementation of security plans and procedures, control of security information, control of special nuclear material, administration of access to controlled security information, and compliance with government clearance requirements regarding access to Restricted Data.
- (c) The above list of matters over which NINA will have sole authority has been formulated in the context of operating reactors, and therefore, some of the above matters may not have full applicability to the construction of STP 3&4. However, the full range of matters is included so as to assure clarity as to NINA's authority as the licensee organization singularly responsible for direction of the design and construction of the proposed plant until such authority is transitioned to STPNOC.

1D.3 Governance of STP Nuclear Operating Company**1D.3.1 STPNOC Board of Directors**

- (a) STPNOC is a not for profit Texas corporation that is controlled by a board of four directors, three members of which are appointed by the Austin, CPS Energy, and NRG South Texas LP, an indirect wholly owned subsidiary of NRG Energy. These three directors choose the fourth director, who then also serves as the CEO of STPNOC. Austin and CPS Energy are governmental organizations in the State of Texas that are controlled by city councils elected by the citizens of these U.S. cities. NRG Energy is a publicly traded, widely held U.S. corporation, and it is not under FOCD.
- (b) Pursuant to Article VI of STPNOC's Restated Articles of Incorporation, Austin, CPS Energy and NRG South Texas LP appoint the three "Participant Directors" of STPNOC. Notably, NRG South Texas LP is the successor to "Texas Genco LP," which is the entity named in the Restated Articles of Incorporation dated April 27, 2005. The three Participant Directors elect a fourth CEO/Director by a unanimous vote of all three. As such, all of the STPNOC directors currently are U.S. citizens appointed by organizations that are under U.S. control. The STPNOC directors control STPNOC pursuant to Article V of the Restated Articles of Incorporation, which provides that STPNOC "is to

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have no members," i.e., it has no owners, but rather "its affairs are managed by a Board of Directors."

- (c) STPNOC is subject to U.S. control, and it will exercise authority over nuclear safety and security matters free from any potential for foreign domination or control over its decision making in any area of concern to the NRC under 10 CFR 50.38 and Section 103.d of the Act. In particular, STPNOC is and will remain free from any foreign control or domination with regard to security matters, and STPNOC is subject to ongoing U.S. government oversight regarding foreign ownership, control or influence.
- (d) STPNOC maintains a Facility Security Clearance, and it has individual employees who maintain U.S. government security clearances. In connection with ongoing oversight of these security clearances, STPNOC periodically updates a "Certificate Regarding Foreign Interests" using Standard Form 328 (SF 328), which provides for disclosures regarding potential foreign ownership, control or influence.
- (e) The SF 328 includes various questions regarding a range of potential areas of foreign influence, including debt, foreign source income, foreign directors and executive personnel, contracts and agreements with foreigners, etc. Material changes to answers to any questions in the SF 328 are reported to NRC in accordance with 10 CFR 95.17(a)(1). Submittals to U.S. government security officials include the Department of Energy's forms identifying owners, officers, directors and executive personnel (OODEPs), and their citizenship. These OODEPs are submitted and periodically updated for STPNOC, as well as Austin, CPS Energy and the NRG Energy entities in the chain of control of NRG South Texas LP. Austin, CPS Energy and NRG South Texas LP do not "own" STPNOC, but they are treated like owners in connection with the government's security reviews, because they have the right to appoint the STPNOC Participant Directors.
- (f) Notably, neither NINA 3 nor NINA 4 has any rights regarding the appointment of the directors of STPNOC. If NINA 3 and/or NINA 4 acquired rights regarding appointment of directors in connection with their ownership interest in STP 3&4, any such rights would be subject to NRC notice and review requirements, e.g., RIS 2000-01. Moreover, to the extent that NINA, NINA 3 and/or NINA 4 might be in a position to control or influence the STPNOC Board, their role with respect to nuclear safety, security or reliability matters is circumscribed by the negation measures described in Section 2.0 of this Plan, including the authority of the Security Subcommittee and the oversight of the Nuclear Advisory Committee to assure that potential FOCD is negated.

STP 3 & 4**Final Safety Analysis Report****1D.3.2 South Texas Project Owners Committee and Operating Agreement**

- (a) The owner licensees for STP 3&4 (CPS Energy, NINA 3, and NINA 4) are members of the South Texas Project Owners Committee, and they have certain rights and decision making authority regarding financial and other matters pursuant to the terms of the Amended and Restated Participation Agreement effective November 17, 1997 (the "Participation Agreement"). As owners of South Texas Project, Units 1 and 2 (STP 1&2), Austin and NRG South Texas LP are also members of the Owners Committee. Austin and NRG South Texas LP have certain rights and decision making authority as part of the Owners Committee regarding both STP 1&2 matters and matters common to STP 1&2 and STP 3&4.
- (b) The matters to be addressed by the Owners Committee are specified in Section 9.3 of the Participation Agreement, which provides for certain administrative oversight of the South Texas Project by the Owners Committee. To the extent that NINA, NINA 3 and/or NINA 4 may be in a position to indirectly control or influence STPNOC through the participation of NINA 3 and/or NINA 4 in the Owners' Committee, their role with respect to nuclear safety, security or reliability matters is circumscribed by the negation measures described in Section 2.0 of this Plan, including the authority of the Security Subcommittee and the oversight of the NAC to assure that potential FOCD is negated. Thus, if the Owners Committee were to make decisions influencing or implicating nuclear safety, security or reliability issues, then the rights of NINA 3 and/or NINA 4 as part of the Owners Committee would be exercised under U.S. control as provided for in Section 2.0 of this Plan. Moreover, under the terms of the Operating Agreement described further below, STPNOC itself has specific authority that would negate such influence.
- (c) Significantly, STPNOC is to be the licensee responsible for operation pursuant to the STP 3&4 licenses. STPNOC has entered into the South Texas Project Operating Agreement dated effective November 17, 1997 (the "Operating Agreement"), and this Operating Agreement governs the terms of its operation of all nuclear generating units at the South Texas Project. Pursuant to the terms of Section 2.1 of the Operating Agreement, STPNOC is granted all requisite authority to exercise its responsibilities as the operating licensee, including having "sole authority" in order "to make all decisions to protect public health and safety as required by the Operating Licenses and applicable laws and regulations and as are necessary to comply with applicable laws and regulations." These provisions assure STPNOC control, and therefore "U.S. control," over nuclear safety, security and reliability

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matters within the meaning of 10 CFR 50.38 and Section 103.d of the Act.

- (d) As such, throughout the operation of STP 3&4, STPNOC will have sole responsibility with respect to matters involving nuclear safety, security or reliability, including compliance with all NRC nuclear safety and security requirements (STPNOC's "Sole Authority"). This includes denying unauthorized persons access to security information and assuring compliance with U.S. government requirements governing access to restricted data.

1D.4 Summary

- (a) This Plan includes a robust set of mechanisms that provide defense in depth to assure that NINA and its licensee subsidiaries, as well as STPNOC, are governed through U.S. control over nuclear safety, security and reliability matters, so that no such entity either is or is expected in the future to be under FOCD within the meaning of 10 CFR 50.38 and Section 103.d of the Act. Under the terms of the NINA LLC Agreement, the ultimate decision making authority of NINA regarding nuclear safety, security and reliability matters has been delegated to the Security Subcommittee, which itself is controlled by independent U.S. citizen directors.
- (b) STP 3&4 will be operated by STPNOC, a company that is under U.S. control. In addition, STP 3&4 will be owned 7.625% by CPS Energy, and NINA will assure that it is at all times at least 10% owned by U.S. owners. As such, indirect foreign ownership of STP 3&4 will at all times be less than 85%.
- (c) Recognizing that day to day decision making is delegated to executive personnel, the Plan contemplates that a U.S. citizen CEO of NINA will assure U.S. control over matters that require U.S. control. The Plan includes a requirement that the CEO acknowledge a special duty to the U.S. government. In addition, the appointment of any successor CEO must be approved by the Security Subcommittee, which provides additional assurance that the CEO will function as part of the team of U.S. citizens exercising a special duty to the U.S. government to assure compliance with respect to FOCD matters. Significantly, the CEO has access to the expert advice and resources of the NAC and has been given specific authority to refer a matter to the Security Subcommittee, requiring that the Security Subcommittee consider the matter in a Special Meeting. This assures that even though matters may be delegated to executive personnel, influence over delegated matters cannot be used to circumvent the requirement for U.S. control and the ultimate authority of the Security Subcommittee.
- (d) In addition, STPNOC will be the licensee responsible for the operation of STP 3&4. STPNOC is a U.S. company that is under U.S. control.

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Operation of STP 3&4 is subject to the Sole Authority of STPNOC, as necessary to assure that such operation is not subject to FOCD within the meaning of 10 CFR 50.38 and Section 103.d of the Act. To the extent that NINA, NINA 3 and/or NINA 4 might be able to exercise control or influence over STPNOC, the potential for foreign control, domination or influence over STPNOC regarding nuclear safety, security or reliability matters is mitigated by the negation measures described in Section 2.0 of this Plan.

- (e) Notably, Section 3.2(2) of the Standard Review Plan on Foreign Ownership, Control and Domination specifically provides that further consideration is to be given to "whether the applicant is seeking authority to operate the reactor." STPNOC is the entity to be licensed as the operator, and its role as a U.S. controlled entity that will be responsible for nuclear safety and security throughout the operating life of STP 3&4 should be given great weight in evaluating FOCD issues.
- (f) Finally, the NAC will perform an ongoing monitoring function to assess FOCD issues and surface any potential concerns regarding FOCD matters. In addition, the expert resources of the NAC provide a pathway for continuous enhancement and improvement of the mechanisms to assure that any potential inappropriate FOCD is negated. This ongoing role provides further assurance that the required U.S. control of NINA and of the NRC licenses is maintained consistent with the provisions of 10 CFR 50.38 and Section 103.d of the Act.

1D.5 Implementing Documents**1D.5.1 South Texas Project, Unit 3&4, Negation Action Plan, Rev. 0, dated June 2011.****1D.5.2 South Texas Project, Units 3&4, COLA Part 1, Section 1.5****1D.5.3 Fourth Amended and Restated Operating Agreement of Nuclear Innovation North America, LLC****1D.5.4 Certificates of Independent Directors and CEO**