



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

September 28, 2012

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

SUBJECT: SOUTH TEXAS PROJECT, UNITS 1 AND 2 – REQUEST FOR ADDITIONAL INFORMATION REGARDING THRESHOLD DETERMINATION UNDER 10 CFR 50.80 RELATED TO THE PROPOSED MERGER BETWEEN NRG ENERGY, INC. AND GENON ENERGY, INC. (TAC NOS. ME9166 AND ME9167)

Dear Mr. Richards:

By letter dated August 1, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12228A380), as supplemented by letter dated August 28, 2012 (ADAMS Accession No. ML12261A334), STP Nuclear Operating Company (STPNOC), acting on behalf of NRG South Texas LP, requested the U.S. Nuclear Regulatory Commission (NRC) staff to make a threshold determination that a proposed merger between NRG Energy, Inc., and GenOn Energy, Inc., would not involve a direct or indirect transfer of control of NRG South Texas's licenses for South Texas Project, Units 1 and 2, and, therefore, require approval pursuant to Section 50.80, "Transfer of licenses," of Title 10 of *Code of Federal Regulations*.

The NRC staff has reviewed the information provided in your application and determined that additional information is required in order to complete its review. The NRC staff's request for additional information (RAI) is enclosed. STPNOC has requested an expedited review in order for the NRC staff to issue its determination by November 1, 2012. The need for an expedited response to the RAI was discussed with Mr. Jamie Paul of your organization and it was agreed that STPNOC will provide its response to RAI within 15 days from the date of this letter.

K. Richards

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If you have any questions, please contact me at 301-415-3016 or balwant.singal@nrc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "for Balwant K. Singal". The signature is fluid and cursive, with a horizontal line underlining the name "Singal".

Balwant K. Singal, Senior Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

Enclosure:
As stated

cc w/encl: Distribution via Listserv

REQUEST FOR ADDITIONAL INFORMATION
THRESHOLD DETERMINATION UNDER 10 CFR 50.80 REGARDING THE
PROPOSED MERGER BETWEEN NRG ENERGY, INC., AND GENON ENERGY, INC.
STP NUCLEAR OPERATING COMPANY
SOUTH TEXAS PROJECT, UNITS 1 AND 2
DOCKET NOS. 50-498 AND 50-499

By letter dated August 1, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12228A380), as supplemented by letter dated August 28, 2012 (ADAMS Accession No. ML12261A334), STP Nuclear Operating Company (STPNOC, the licensee), acting on behalf of NRG South Texas LP, requested the U.S. Nuclear Regulatory Commission (NRC) staff to make a threshold determination that a proposed merger between NRG Energy, Inc. (NRG Energy), and GenOn Energy, Inc. (GenOn Energy), would not involve a direct or indirect transfer of control of NRG South Texas's licenses for South Texas Project (STP), Units 1 and 2, and therefore require approval pursuant to Section 50.80, "Transfer of licenses," of Title 10 of *Code of Federal Regulations* (10 CFR).

The NRC staff has reviewed the information provided in your application and determined that the following additional information regarding foreign ownership, control, or domination (FOCD) is required in order to complete its review

In the supplement dated August 28, 2012, STPNOC provided additional information to the NRC regarding FOCD as it relates to NRG Energy and GenOn Energy. In particular, STPNOC states, in part, that

NRG Energy has identified that in an amended SEC [Securities and Exchange Commission] Schedule 13G filing dated February 13, 2012, Blackrock, Inc., a Delaware corporation, reported that it owned 10.2% of the voting common stock of NRG Energy on December 31, 2011 and that an undisclosed number of these shares are held by one or more foreign domiciled subsidiary. Based upon more recent August 13, 2012 Form 13F filings with the SEC, NRG Energy believes that the Blackrock, Inc. and others of its affiliated group owned approximately 8.3% of the outstanding shares of NRG Energy on June 30, 2012. Of these shares, the 13F Filings indicate that approximately 1.6% of the voting shares of NRG Energy are held by two foreign Blackrock entities.

In letter dated August 28, 2012, STPNOC further stated, in part that

State Street Corporation, a Massachusetts corporation, has reported in a Schedule 13G dated February 9, 2012 that as of December 31, 2011, it owned 5.3% of the voting common stock of NRG Energy and that an undisclosed number of these shares are held by one or more foreign domiciled subsidiary.

Enclosure

In addition, during its review of the license renewal application for STP, Units 1 and 2, by letter dated May 22, 2012 (ADAMS Accession No. ML12143A031), the NRC staff issued a request for additional information (RAI) on FOCD regarding Orbis Investment Management, a Delaware limited liability company, which has shares held by OIMUS and two Bermuda-based affiliated companies, Orbis Investment Management Ltd. and Orbis Asset Management Ltd. In response to the NRC staff's RAI, by letter dated May 31, 2012 (ADAMS Accession No. ML12163A334), STPNOC stated that NRG Energy previously established a Nuclear Oversight Committee of the NRG Energy Board and a Nuclear Oversight Subcommittee, which are made up entirely of U.S. citizens, and Board authority has been delegated to the Nuclear Oversight Subcommittee over any matters that could have implications for compliance with 10 CFR 50.38, "Ineligibility of certain applicants." The STPNOC provided the "Charter of the Nuclear Oversight Committee of the Board of Directors of NRG Energy, Inc.," in Attachment 1, and a copy of the delegation of actions to the Nuclear Oversight Subcommittee in Attachment 2 of its letter dated May 31, 2012.

Section 103d of the Atomic Energy Act prohibits the NRC from issuing a license to:

[a]n alien or any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation or a foreign government.

Section 50.38 of 10 CFR is the regulatory provision that implements this statutory prohibition.

In order for the NRC staff to complete its review regarding FOCD, please provide the following additional information:

1. Please provide information on the State Street Corporation foreign domiciled subsidiary that holds an undisclosed number of voting common stock of NRG Energy.

K. Richards

- 2 -

If you have any questions, please contact me at 301-415-3016 or balwant.singal@nrc.gov.

Sincerely,

/RA by NKalyanam for/

Balwant K. Singal, Senior Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

Enclosure:
As stated

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JSimpson, NRR/DIRS/IFIB

ADAMS Accession No. ML12258A128

***Concurrence via e-mail**

OFFICE	NRR/DORL/LPL4/PM	NRR/DORL/LPL4/LA	NRR/DIRS/IFAIB/BC(A)
NAME	BSingal	JBurkhardt	MDusaniwskyj
DATE	9/16/12	9/17/12	9/26/12
OFFICE	OGC	NRR/LPL4/BC w./ changes	NRR/LPL4/PM
NAME	SUttal	MMarkley	BSingal (NKalyanam for)
DATE	Not Required	9/28/12	9/28/12

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