[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2012-0310]

In the Matter of	)	
	)	
	)	
LUMINANT GENERATION COMPANY LLC	)	
	)	
	)	
	)	
Comanche Peak Nuclear Power Plant, Units 1 and 2	)	**Docket Nos. 50-445 and 50-446**
	)	**License Nos. NPF-87 and NPF-89**
	)	

Order Approving the Proposed Internal Restructuring and Indirect Transfer of License

I.

Luminant Generation Company LLC (Luminant, the licensee), is the holder of the Facility Operating License Nos. NPF-87 and NPF-89, which authorizes the possession, use, and operation of the Comanche Peak Nuclear Power Plant, Units 1 and 2 (CPNPP), and its Independent Spent Fuel Storage Installation Facility. CPNPP is located in Somervell County, Texas.

II.

By application dated October 11, 2012, as supplemented by letters dated October 24, November 26, December 5, and December 17, 2012, the licensee, acting on behalf of Energy Future Holdings Corporation (EFH), Energy Future Competitive Holdings Company (EFCH),

Texas Competitive Electric Holdings Company LLC, and Luminant Holding Company LLC, the applicants, seek approval pursuant to 10 CFR 50.80 of the indirect transfer of control of CPNPP, Units 1 and 2, Facility Operating License Nos. NPF-87 and NPF-89, respectively. The transfer also involves the general license for CPNPP Independent Spent Fuel Storage Installation Facility.

EFCH is a direct, wholly owned subsidiary of EFH. EFCH, through its wholly owned subsidiaries, owns Luminant, the owner and operator of CPNPP. EFH is planning an internal transaction, the ultimate result of which is to convert EFCH from a Texas corporation into a Delaware limited liability corporation. Following the conversion, EFCH will remain a wholly owned subsidiary of EFH, and EFH will retain the same assets, liabilities, owners, board of directors, and management. There will be no change of control of EFH, EFCH, or Luminant as a result of this internal restructuring. No physical changes to the CPNPP facilities or operational changes are proposed.

The internal restructuring will be completed in several steps. EFH would form a new wholly owned subsidiary known as EFH2 corporation (EFH2), which would be a Texas corporation. EFH would then contribute its stock in EFCH to EFH2 causing EFCH to become a wholly owned subsidiary of EFH2. EFCH would then convert to a Delaware limited liability company by operation of applicable Texas and Delaware law. Finally, EFH would merge with and into EFH2 with EFH2 being the surviving entity, and EFH2 would change its name to Energy Future Holdings Corporation and adopt the current certificate of formation and bylaws of EFH.

Approval of the indirect transfer of the facility operating license was requested by Luminant. A notice entitled, "Consideration of Approval of Application Containing Sensitive Unclassified Non-Safeguards Information Regarding Proposed Energy Future Holdings Corporation Internal Restructuring," was published in the *Federal Register* on January 2, 2013 (78 FR 119), and a correction notice was published on January 10, 2013 (78 FR 2295). No comments or hearing requests were received. The supplemental letters dated November 26, December 5, and December 17, 2012, provided additional information that clarified the application and did not expand the scope of the application as originally noticed.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the U.S. Nuclear Regulatory Commission (NRC) shall give its consent in writing. Upon review of the information in the application as supplemented, and other information before the Commission, and relying upon the representations and agreements in the application, the NRC staff has determined that the proposed indirect transfer of control of the subject licenses held by the licensee to the extent such will result from the proposed internal restructuring, as described in the application, will not affect the qualifications of the licensee to hold the respective licenses and is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto, subject to the conditions set forth below. The findings set forth above are supported by a safety evaluation dated February 25, 2013.

III.

Accordingly, pursuant to Sections 161b, 161i, 161.o, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR

50.80, IT IS HEREBY ORDERED that the application regarding the proposed indirect license transfer is approved, subject to the following condition:

> On October 10, 2007, Luminant Holding Company LLC, the immediate parent company of Luminant Power, provided Luminant Power with a support agreement in the amount of $250 million.
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> "IT IS HEREBY ORDERED that in connection with the proposed transaction, Luminant Holding Company LLC shall increase the amount available under this support agreement to $300 million, which provides a source of funding in an amount that is adequate to fund approximately one year's worth of the average projected expense for the fixed operations and maintenance (O&M) of CPNPP."

IT IS FURTHER ORDERED that after receipt of all required regulatory approvals of the proposed indirect transfer action, Luminant shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt no later than 5 business days prior to the date of the closing of the indirect transfer. Should the proposed indirect transfer not be completed within 1 year from the date of this Order, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated October 11, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12312A157), as supplemented by letters dated October 24, November 26, December 5, and

December 17, 2012 (ADAMS Accession Nos. ML12312A071, ML12340A446, ML12354A058, and ML12363A028, respectively), and the safety evaluation dated February 22, 2013, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at http://www.nrc.gov/reading-rm/adams.html. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland this 22nd day of February 2013.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Michele G. Evans, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation