


December 13, 2011

Mr. Mark McBurnett, Vice President
Regulatory Affairs
Nuclear Innovation North America, LLC
4000 Avenue F
Bay City, TX 77414

United States Nuclear Regulatory Commission Official Hearing Exhibit	
In the Matter of:	NUCLEAR INNOVATION NORTH AMERICA LLC (South Texas Project Units 3 and 4)
	ASLBP #: 09-885-08-COL-BD01
	Docket #: 05200012 05200013
	Exhibit #: NRC000118-00-BD01
	Admitted: 1/6/2014
	Rejected:
Other:	Identified: 1/6/2014 Withdrawn: Stricken:

SUBJECT: SOUTH TEXAS PROJECT UNITS 3 AND 4 COMBINED LICENSE APPLICATION
FINANCIAL REVIEW

Dear Mr. McBurnett:

By letter dated September 20, 2007, STP Nuclear Operating Company submitted a combined license application (COLA) for South Texas Project (STP) Units 3 and 4. This application was subsequently docketed and the U.S. Nuclear Regulatory Commission (NRC) staff began its review of the application. As of January 24, 2011, Nuclear Innovation North America LLC (NINA) became the lead applicant for STP Units 3 and 4. As such, NINA assumed responsibility for design, construction and licensing of STP Units 3 and 4.

By letter dated June 23, 2011, NINA submitted revised General and Financial Information including a revised foreign ownership Negation Action Plan. This revised General and Financial Information was included as Part 1 of Revision 6 to the COLA which NINA submitted on August 30, 2011. Under the revised Negation Action Plan Toshiba Corp. (Toshiba) could acquire up to 90 percent ownership of NINA, thereby obtaining an 85 percent ownership interest in STP Units 3 and 4. Your revised General and Financial Information also states that NRG Energy will not invest additional capital in the development of the new units. By letters dated July 13, 2011, and October 13, 2011, the staff issued requests for additional information (RAIs) 379 and 387, respectively. These RAIs contained questions regarding your foreign ownership Negation Action Plan. By letters dated August 4, 2011, and November 8, 2011, NINA responded to RAIs 379 and 387, respectively.

The NRC staff has completed its review of NINA's foreign ownership Negation Action Plan and of the responses to RAIs 379 and 387. The staff has determined that NINA's application does not meet the requirements of 10 CFR 50.38. The staff has determined that: (1) Revision 6 to NINA's COLA would allow Toshiba to acquire up to 90 percent ownership of NINA, thereby obtaining an 85 percent ownership interest in STP Units 3 and 4; (2) since NRG Energy will not be investing additional capital in the project there is reason to believe that most of the financing going forward will be from Toshiba; (3) Toshiba is a foreign corporation; (4) Toshiba has the power to exercise ownership, control, or domination over NINA; and (5) the Negation Action Plan submitted by NINA does not negate the foreign ownership, control or domination issues discussed above. Until these issues are resolved, the staff is suspending its review of the foreign ownership section of your application. If requested, NRC staff will support a public meeting with NINA to discuss the results of its review.

M. McBurnett

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While NINA considers its options to move forward, the review of the remaining portions of the COL application will continue, as appropriate; however, a license will not be issued until the requirements of 10 CFR 50.38 are met. If you would like to discuss any of the issues in this letter, please contact the lead project manager, George Wunder at (301) 415-1494.

Sincerely,

/RA/

David B. Matthews, Director
Division of New Reactor Licensing
Office of New Reactors

Docket Nos.: 52-012
52-013

cc: See next page

M. McBurnett

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(Revised 11/02/2011)

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