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REQUEST FOR ADDITIONAL INFORMATION

OFFICE OF NUCLEAR REACTOR REGULATION

APPLICATION FOR APPROVAL OF INDIRECT TRANSFER OF CONTROL

PPL SUSQUEHANNA, LLC

SUSQUEHANNA STEAM ELECTRIC STATION UNITS 1 AND 2

DOCKET NOS. 50-387 AND 50-388

By letter dated July 11, 2014,<sup>1</sup> PPL Susquehanna, LLC (PPL Susquehanna, the licensee), submitted an application for approval of Indirect Transfer of Control of the licenses for the Susquehanna Steam Electric Station, Units 1 and 2 (SSES), pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (the Act), Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.80, "Transfer of licenses" and 10 CFR 72.50, "Transfer of license." The indirect transfers of control results from a series of transactions in which PPL Corporation will spin off PPL Energy Supply, LLC which will result in a new intermediate parent company, Talen Energy Holdings, Inc. To complete its review, the Nuclear Regulatory Commission (NRC) staff requests the following additional information regarding financial qualifications and foreign ownership, control, or domination (FOCD).

**Financial Qualifications**

On page 11 of 19 of the licensee's application, PPL Susquehanna provided a projected five year income statement for SSES, in accordance with 10 CFR 50.33(f)(2), and stated that PPL's Susquehanna's anticipated sources of revenue from sales of energy would provide reasonable assurance of an adequate source of funds to meet PPL Susquehanna's share of expenses for the plan.

Under 10 CFR 50.33(l) a non-utility applicant must provide information sufficient to demonstrate its financial qualifications to carry out the activities for which the license is being sought. In addition, per NUREG 1577, "Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance",<sup>2</sup> Rev. 1, the reviewer "will also consider relevant-financial information (i.e., information on cash or cash equivalents that would be sufficient to pay fixed operating costs during an outage of at least 6 months... and any other relevant factors)."

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<sup>1</sup> Agencywide Documents Access and Management System (ADAMS) Accession No. ML14195A110.

<sup>2</sup> ADAMS Accession No. ML013330264.

Finally, 10 CFR 50.33(f)(5) states that:

The Commission may request an established entity or newly-formed entity to submit additional or more detailed information respecting its financial arrangements and status of funds if the Commission considers this information appropriate. This may include information regarding a licensee's ability to continue the conduct of the activities authorized by the license and to decommission the facility.

License transfer financial qualification reviews provide an opportunity for NRC staff to review and ultimately address any new financial qualification concerns. The finding of reasonable assurance that funds will be available to cover estimated operating costs for the period of the license relies on the applicant providing sufficient information regarding availability of credit or support agreements, bank lines of credit or other specifically identified sources of funds, sufficient to fund the estimated fixed operating and maintenance costs the period of the license.

In its 10-K filing with the Securities and Exchange Commission on February 22, 2014, PPL Corporation indicated on page 41:

Continued depressed wholesale market prices for electricity and natural gas have resulted from general weak economic conditions and other factors, including the impact of expanded domestic shale gas development and additional renewable energy sources, primarily wind in the western U.S. Unregulated Gross Energy Margins associated with PPL Energy Supply's competitive generation and marketing business are impacted by changes in energy and capacity market prices and demand for electricity and natural gas, power plant availability, competition in the markets for retail customers, fuel costs and availability, transmission constraints that impact the locational pricing of electricity at PPL Energy Supply's power plants, fuel transportation costs and the level and price of hedging activities. As a result of these factors, energy margins were lower in 2013 compared to 2012 and future energy margins are expected to be lower compared to 2013 energy margins.

RAI 1: Based on the information provided in the application, provide the following additional information, pursuant to 50.33(l) regarding financial qualifications:

- a. In its application for transfer of control dated December 15, 1999,<sup>3</sup> PPL Susquehanna submitted a proprietary projected income statement as Attachment 4A. Justify the apparent change in operating expenses for SSES since 1999, considering PPL Corporation's statements in its 10-K SEC filing.
- b. Provide supporting documentation to justify the projected market prices per megawatt hour (MWh), capacity factors and expenses.

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<sup>3</sup> ADAMS Accession No. ML993560019.

- c. Provide a cashflow statement for SSES for the period 2015-2019.

### **Foreign Ownership, Control, or Domination**

Sections 103d and 104d of the Act provide, in part, that:

No license may be issued to 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. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issue of a license to such person would be inimical to the common defense and security or to the health and safety of the public. Section 50.38 of 10 CFR implements this statutory prohibition.

#### Riverstone

On page 9 of 19, the licensee states that although the Directors of Talen Energy have not been selected, one candidate is a non-U.S. citizen. It is further stated that Riverstone Energy GP V, LLC, is managed by a seven-person Board of Directors, all but one of whom is a U.S. Citizen. Finally you stated that the Raven Holdings, Jade Holdings, and Sapphire Holdings, (RJS Shareholders), portfolio companies sponsored by Riverstone Holdings LLC, will own 35% percent of the common stock of Talen Energy.

The NRC staff notes that a FOCD determination by the NRC is based on the totality of facts since a foreign entity may exert indirect control due to factors other than voting interests, including financial interests, consistent with the direction in the NRC Standard Review Plan on FOCD.

RAI 2: In order to make a determination on FOCD, the NRC staff requests the licensee:

- a. Provide the name of the non-U.S. citizen director of Riverstone Energy GP V LLC.
- b. Explain the Director's responsibilities and authority over SSES regarding NRC activities, specifically as they relate to nuclear safety, security, reliability, or special nuclear material.
- c. Explain how the non-U.S. citizen director of Riverstone Energy GP V LLC, and any non-U.S. citizen directors or officers of Talen Energy or the RJS Shareholders will be excluded from having decision-making authority regarding SSES plant and special nuclear materials. In addition, state whether there are any procedures in place to assure that non-U.S. citizen Directors or Officers of any direct or indirect owner will not participate in decisions concerning nuclear safety or security; obtaining

responsibility for special nuclear material; or gaining access to restricted data. If so, provide a list of those procedures.

- d. State whether there are any unanimous consent requirements for decisions made by the Board of Talen Energy.
- e. Describe the legal, contractual or financial arrangements, if any, between any of the proposed NRC licensees and any entity that is owned, controlled, or dominated, directly or indirectly, by a foreign entity. Indicate the percentage of foreign ownership of Riverstone Holdings LLC.

According to publicly available information, Riverstone Holdings LLC is an affiliate of the Carlyle Group LP. Carlyle Group L.P. has disclosed three IRANNOTICE filings since March 14, 2013, with the Securities and Exchange Commission.

- f. Describe any financial, contractual or other business relationships, arrangements, ownership interests, or interlocking directors with entities, subsidiaries or affiliates of the proposed licensee owners conducting commercial activity in Iran subject to the regarding exports and sanctions regulations administered by the Office of Foreign Assets Control.

#### BlackRock

On page 8 of 19 of the licensee's application, the February 10, 2014, 13G/A filing indicated 6.9% beneficial ownership of PPL Corporation by BlackRock, Inc., which included ownership interests by foreign entities.

The NRC staff notes that a FOCD determination by the NRC is based on the totality of facts since a foreign entity may exert indirect control due to factors other than voting interests, including financial interests.

RAI 3: In order to make a determination on FOCD, the NRC staff requests the licensee:

- a. State whether there are any unanimous consent requirements for decisions made by the Board of Directors of PPL Corp. and whether BlackRock, Inc. or any foreign entities have any right to participate in unanimous decisions. If so, provide a list of their rights.
- b. Describe the legal, contractual or financial arrangements, if any, between PPL Corp. or any of the proposed NRC licensees between BlackRock, Inc. and its foreign subsidiaries or any entity that is owned, controlled, or dominated, directly or indirectly, by a foreign entity.
- c. Describe the type of shares (e.g., common or preferred stock) and shareholder rights of the shares of PPL Corporation that BlackRock, Inc. (including BlackRock's foreign

subsidiaries or affiliates) own as a result of the December 9, 2011, Schedule 13G filing with the SEC. In addition, state what rights these entities will have to participate in matters affecting the management or operation of the Talen Energy, including, but not limited to, the right to nominate any Director(s) to Talen's Board of Directors.

- d. State whether there are any procedures in place to assure that BlackRock, Inc. and its subsidiaries or any entity that is owned, controlled, or dominated, directly or indirectly, by a foreign entity, does not result in their participation in decisions concerning nuclear safety or security; obtaining responsibility for special nuclear material; or gaining access to restricted data. If so, provide a list of those procedures.

### **Timing and Steps of the Transaction**

On page 3 of 19 of the application, the licensee states, in part, that:

With the exception of Steps (1) through (3), which have already been implemented, the Transaction steps will be substantially contemporaneous, but deemed to occur in the order set forth above. These steps could be altered, however, and accordingly PPL Susquehanna requests NRC consent to these or any similar, substantially contemporaneous steps that result in the final structure shown in Figure 2.

10 CFR 50.80(a) states, in part, that:

No license for a production or utilization facility [...], or any right thereunder, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing.

The staff notes that non-contemporaneous transactions may involve multiple license transfers.

RAI 4: Provide the following documents to the NRC which were provided to the Pennsylvania Public Utilities Commission on July 30, 2014: Separation Agreement and Separation Agreement Schedules; Transaction Agreement; Organizational chart showing PPL Corporation and its subsidiaries prior to the closing of the Proposed Transaction (June 1, 2014); Organizational chart showing Riverstone, the RJS Shareholders and relevant affiliates prior to the closing of the Proposed Transaction, Organizational chart showing PPL Corporation and its subsidiaries following the closing, and Organizational chart showing Riverstone, the RJS Shareholders and relevant affiliates following the closing of the Proposed Transaction.

## **Regulatory Commitments**

RAI 5: Attachment 8 to the licensee's application provides a list of regulatory commitments associated with the license transfer request. However, after reviewing the Commitment Description, it appears that these actions are required as part of the review of the license transfer request. Please provide an explanation as to why categorizing these actions as regulatory commitments is appropriate.

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