

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Blue Ridge Environmental Defense
League, Inc.,

Petitioner,

vs.

U.S. Nuclear Regulatory Commission
and United States of America,

Respondents.

Case No. 15-1258
Consolidated with Nos.
15-1259, 15-1260,
15-1261, 15-1262, and
15-1263

August 27, 2015

STP NUCLEAR OPERATING COMPANY
MOTION FOR LEAVE TO INTERVENE

Pursuant to 28 U.S.C. § 2348, Rules 15(d) and 27 of the Federal Rules of Appellate Procedure, and Circuit Rules 15(d) and 27 for the United States Court of Appeals for the District of Columbia Circuit, STP Nuclear Operating Company (“STPNOC”) respectfully moves for leave to intervene in the above-captioned consolidated proceeding in which the Sustainable Energy and Economic Development Coalition (“SEED”) seeks review of a final order of the U.S. Nuclear Regulatory Commission (“NRC”) in *Duke Energy Carolinas, L.L.C. (William States Lee III Nuclear Station, Units 1 and 2), et al.*, NRC Commission Memorandum and Order CLI-15-15 (June 9, 2015). That order denied SEED’s request for hearing and motion to reopen the record with respect to STPNOC’s

application for renewal of the operating licenses for South Texas Project (“STP”) Units 1 and 2.

STPNOC is the lead applicant in the NRC proceeding that is the subject of SEED’s petition for review in Case No. 15-1262. By letter dated October 25, 2010, STPNOC filed an application for renewal of the operating licenses for STP Units 1 and 2. STPNOC’s interests will be directly affected if the order that is the subject of the petition for review is set aside or suspended, because such an action could adversely affect the status of STPNOC’s application. Therefore, pursuant to 28 U.S.C. § 2348, STPNOC may appear as of right in any proceeding to review the order. Accordingly, STPNOC respectfully requests leave to intervene to appear as a respondent in support of Memorandum and Order, CLI-15-15.

In further support, STPNOC states the following:

1. In its Memorandum and Order, CLI-15-15, the NRC denied a motion by SEED to reopen the record of the STP license renewal proceeding and admit a contention asserting that the NRC violated the National Environmental Policy Act (“NEPA”). In particular, SEED’s petition claims that the NRC violated NEPA by relying upon the Continued Storage of Spent Nuclear Fuel Rule, 79 Fed. Reg. 56,238 (Sept. 19, 2014) (“Continued Storage Rule”), and the supporting Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel, 79 Fed. Reg. 56,263 (Sept. 19, 2014). Challenges to the NRC’s Continued Storage

Rule and the supporting Generic Environmental Impact Statement are the subject of the petitions for review in *State of New York v. NRC*, D.C. Cir. No. 14-1210 (consolidated with D.C. Cir. Nos. 14-1212, 14-1216, 14-1217). SEED's motion before the Commission sought to reopen the record and admit a "placeholder" contention to ensure that the outcome of the pending *State of New York* appeal before this Court would apply to the STP license renewal proceeding.

2. In Memorandum and Order, CLI-15-15, the Commission also denied substantively identical motions filed by other organizations in a number of other NRC proceedings.

2. On August 6, 2015 (and corrected on August 7, 2015), SEED filed in this Court a petition for review, that was docketed under Case No. 15-1262. The petition challenges Memorandum and Order CLI-15-15 as applied to the STP license renewal proceeding.

3. Five similar petitions for review involving other nuclear power plants were filed in this Court on the same day, August 6, 2015. By order dated August 7, 2015, this Court *sua sponte* consolidated the STP license renewal proceeding with the cases involving the five similar petitions, under the lead Case No. 15-1258. The Court also granted the various petitioners' motions to hold the proceedings in abeyance pending the outcome of the *State of New York* appeal.

4. As the operator and holder of the NRC operating licenses for STP Units 1 and 2, STPNOC will be directly impacted by this Court's review of SEED's petition. If SEED's request for relief were to be granted, then STPNOC's interests with respect to the license renewal for STP Units 1 and 2 could be substantially and adversely affected. STPNOC, therefore, has a unique, direct, and substantial interest in this proceeding.

5. Pursuant to Federal Rules of Appellate Procedure 15 and 28 U.S.C. § 2348, STPNOC should be deemed to be a party to this proceeding. SEED has explicitly identified STPNOC's plant as the focus of the petition. STPNOC is responsible for property that is the subject of this action, and therefore has a direct and substantial interest in the outcome of this proceeding. The disposition of this action may as a practical matter impair or impede STPNOC's ability to protect its interests. STPNOC is the only party fully capable of asserting and protecting the unique interests that it has in the subject matter of this proceeding.

6. Finally, by filing this motion, STPNOC does not concede any effect of a decision in the *State of New York* appeal with respect to SEED's petition for review, and STPNOC reserves all rights in that regard.

WHEREFORE, for the foregoing reasons, STPNOC respectfully requests that this Court grant its motion for leave to intervene in the above-captioned consolidated proceeding, with the full rights attendant thereto.

Respectfully submitted,

/s/ Steven P. Frantz

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STP NUCLEAR OPERATING COMPANY
CERTIFICATIONS AND DISCLOSURES

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, STP Nuclear Operating Company (“STPNOC”) hereby provides its Disclosure Statement to accompany the STP Nuclear Operating Company Motion for Leave to Intervene.

STPNOC is the operator of STP Units 1 and 2, a nuclear power plant that generates electricity. 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, Texas (“Austin”), City Public Service Board of San Antonio (“CPS Energy”), and NRG South Texas LP. Those three companies are also the owners of STP Units 1 and 2. Those three directors choose the fourth director, who then also serves as the Chief Executive Officer of STPNOC.

NRG South Texas LP is a power generation company in Texas that through its parent holding companies is wholly-owned by NRG Energy, Inc. (“NRG”). NRG is a wholesale power generation company. NRG is the ultimate parent company of NRG Generation Holdings, Inc., Texas Genco Holdings, Inc., Texas Genco GP, LLC, and Texas Genco LP, LLC, who are intermediate parents of NRG South Texas LP.

CPS Energy is a Texas municipal utility and an independent Board of the City of San Antonio, Texas.

The City of Austin also does business as Austin Energy, which is a community-owned electric utility.

In addition, pursuant to Circuit Rules 27(a)(4) and 28(a)(1)(A), the undersigned counsel for STP Nuclear Operating Company certifies as follows:

(1) The following parties appeared before the U.S. Nuclear Regulatory Commission with respect to Case No. 15-1262:

- Applicant: STP Nuclear Operating Company.
- Petitioner: Sustainable Energy and Economic Development Coalition.
- Agency: Staff of the Nuclear Regulatory Commission.

(2) The following parties appear before this Court with respect to Case No. 15-1262:

- Petitioner: Sustainable Energy and Economic Development Coalition.

- Respondents: U.S. Nuclear Regulatory Commission and the United States of America.
- Intervenor: STP Nuclear Operating Company.

Respectfully submitted,

/s/ Steven P. Frantz

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CERTIFICATE OF SERVICE

Pursuant to Rule 25 of the Federal Rules of Appellate Procedure and Circuit Rule 25 of this Court, I, Steven P. Frantz, hereby certify that, on August 27, 2015, the foregoing documents, “STP Nuclear Operating Company Motion for Leave to Intervene” and “STP Nuclear Operating Company Certifications and Disclosures,” were served on all parties or their counsel of record through the CM/ECF system, which will send a notice of electronic filing to the following individuals:

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Pursuant to Electronic Case Filing Rule ECF-6 and Circuit Rules 25(d) and 27(b), on August 27, 2015, I also submitted four paper copies of these documents by First Class Mail addressed to the Clerk.

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