

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
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WOLF CREEK NUCLEAR)	Docket No. 50-482
OPERATING CORPORATION)	
)	
)	
Wolf Creek Generating Station,)	Renewed License No. NPF-42
Unit 1)	

ORDER APPROVING INDIRECT TRANSFER OF LICENSE

I.

Wolf Creek Nuclear Operating Corporation (WCNOC) is the holder of the Renewed Facility Operating License (FOL) No. NPF-42 for the Wolf Creek Generating Station, Unit 1 (WCGS) authorized to possess, use, and operate WCGS. WCGS is located in Coffey County, Kansas.

II.

Pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and Title 10 of the *Code of Federal Regulations* (10 CFR) 50.80, "Transfer of licenses," WCNOC requested consent from the U.S. Nuclear Regulatory Commission (NRC) to the indirect transfer of control of Renewed FOL No. NPF-42 for the WCGS by application dated July 22, 2016 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16208A250).

WCNOC is the licensed operator of WCGS and Kansas City Power & Light Company (KCP&L), Kansas Gas and Electric Company (KG&E), and Kansas Electric Power Cooperative, Inc. (KEPCO) are the three non-operating owner licensees. KCP&L and KG&E each hold a 47 percent undivided interest in WCGS and 47 percent of the stock of WCNOC and KEPCO holds the remaining 6 percent interest. KCP&L is a subsidiary of Great Plains Energy Incorporated (Great Plains) and KG&E is a subsidiary of Westar Energy, Inc. (Westar). The indirect transfer of control will result from the proposed merger of Great Plains and Westar with Westar becoming a wholly-owned subsidiary of Great Plains. KCP&L and KG&E will each continue to hold their respective 47 percent interests in WCNOC and WCGS. KCP&L and KG&E will continue to operate as separate electric utilities responsible for their pro rata shares of the costs of operating WCGS and entitled to their pro rata shares of the capacity, energy, and other energy products produced by WCGS. Great Plains will indirectly own a combined interest in WCGS of 94 percent. The remaining 6 percent ownership interest will continue to be held by KEPCO. WCNOC will continue to be the operator of WCGS with the same management team as in effect prior to the consummation of the proposed merger.

In response to the submission of the indirect license transfer application, the NRC published in the *Federal Register* a notice entitled, "Wolf Creek Generating Station; Consideration of Approval of Transfer of License," on November 17, 2016 (81 FR 81176). In a letter dated December 13, 2016 (ADAMS Accession No. ML17079A255), KEPCO submitted a public comment in response to this notice, which stated, in part, that:

The purpose of this letter is to clarify statements in the Request [by WCNOC for NRC consent to the indirect transfer] about KEPCO's ownership interest and to make clear that the Request was not filed on behalf of all the owners of [WCNOC and WCGS].

...While KEPCO would continue to own 6% of [WCGS] and WCNOC, WCNOC's assertion that KEPCO's ownership interests would be unaffected is inaccurate.

The nature of KEPCO's ownership interest is more than the simple percentage; it was negotiated as part of an overall structure where none of the three owners commanded the majority necessary to unilaterally make important decisions. KEPCO's 6% interest as it currently exists provides KEPCO with substantial influence over the financial and strategic planning for and the oversight of [WCGS] and WCNOG. By contrast, in the post-merger world one company would own 94% of [WCGS] and WCNOG through its affiliated subsidiaries, which would undoubtedly affect how the two previously independent owners would manage their interests in and control of [WCGS] (and WCNOG).

The NRC staff reviewed KEPCO's letter as part of its review of the WCNOG request for consent to the proposed indirect license transfer. The staff notes that, in its application, WCNOG stated that:

The remaining 6.0% ownership interest in WCGS held by [KEPCO] is unaffected by the Merger.

The proposed merger will result in one entity, Great Plains, indirectly owning a combined interest in WCGS of 94 percent, as opposed to two entities, Great Plains and Westar, each indirectly owning a 47 percent interest in WCGS. This does not affect the fact that, in either case, KEPCO indirectly owns a 6 percent interest in WCGS. Whether, as provided by KEPCO, the proposed merger will decrease KEPCO's influence over the financial and strategic planning for WCGS is not relevant to the NRC's review of the proposed indirect license transfer application under AEA Section 184 and 10 CFR 50.80. The NRC's authority with respect to license transfer applications is limited to evaluating financial qualification, decommissioning funding assurance, management and technical support organization, operating organization, foreign ownership, control, or domination, and nuclear insurance and indemnity issues as they relate to the public health and safety and the common defense and security. The relevant NRC regulatory requirements do not apply to strategic business or other corporate decisions and

considerations. Accordingly, the NRC staff concludes that the concerns identified by KEPCO do not impact its conclusion regarding the proposed indirect license transfer application.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, either directly or indirectly, through transfer of control of the license, unless the NRC gives its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that WCNOG is qualified to hold the license following the proposed merger of Great Plains and Westar with Westar becoming a wholly-owned subsidiary of Great Plains. The NRC staff has also determined that the proposed indirect license transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The findings set forth above are supported by an NRC safety evaluation dated April 7, 2017, and available under ADAMS Accession No. ML17037D120.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the application regarding the proposed indirect license transfer is approved.

IT IS FURTHER ORDERED that, after receipt of all required regulatory approvals of the proposed indirect license transfer, WCNOG shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt, and of the date of closing of the transfer, no later than 5 business days prior to the date of the closing of the indirect license transfer. Should the proposed indirect license transfer not be completed within 1 year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and for 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 application dated July 22, 2016 (ADAMS Accession No. ML16208A250), and the NRC Safety Evaluation dated April 7, 2017 (ADAMS Accession No. ML17037D120), which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 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 7th day of April 2017.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA by EBenner for/

Mary Jane Ross-Lee, Acting Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation