



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

REGARDING PROPOSED MERGER

CENTRAL POWER AND LIGHT COMPANY

DOCKET NOS. 50-498 AND 50-499

SOUTH TEXAS PROJECT, UNITS 1 AND 2

1.0 INTRODUCTION

Pursuant to 10 CFR 50.80, Central Power and Light Company (CPL) submitted an application dated June 16, 1998, under cover of a letter dated June 19, 1998, and additional supporting material under cover of a letter dated June 23, 1998, describing the proposed merger of Central and South West Corporation (CSW, the parent holding company of CPL) and American Electric Power Company, Inc. (AEP). The application requests the consent of the Nuclear Regulatory Commission (NRC) to allow the indirect transfer of CPL's interest in STP that will occur under the proposed merger of CSW and AEP.

CPL, as a wholly-owned subsidiary of CSW, owns a 25.2 percent interest in South Texas Project, Units 1 and 2 (STP). Upon completion of the merger, CSW will become a wholly-owned subsidiary of AEP, with CPL remaining a wholly-owned subsidiary of CSW.

The merger will result in an indirect transfer of CPL's interest in the licenses for STP to AEP, and approval for this indirect transfer is being sought from the NRC pursuant to 10 CFR 50.80. Houston Lighting & Power Company, City Public Service Board of San Antonio, and City of Austin, Texas, are the other owners of STP, and the proposed merger does not involve any of them. The STP Nuclear Operating Company (STPNOC) is a holder of the STP licenses and is the licensed operator of STP, but STPNOC is not impacted by the merger. STPNOC holds no ownership interest in either unit.

Pursuant to 10 CFR 50.80, the NRC may approve the transfer of the control of a license, after notice to interested persons. Such action is contingent upon the NRC's determination that the holder of the license following the transfer of control is qualified to hold the license and the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

In the application for approval dated June 16, 1998, the applicant states on page 7:

The purpose of the merger is to achieve benefits for AEP's and CSW's shareholders, customers and communities that would not be achievable if they were to remain separate companies. The potential net non-fuel cost savings related to the merger are approximately \$2 billion over the first ten years following the merger. The savings will come from the elimination of duplicative

activities, improved operating efficiencies, lower capital costs, and the combination of the companies' work forces. In addition, it is anticipated that there will be reduced fuel costs.

## 2.0 FINANCIAL QUALIFICATIONS

According to CPL's application, following the proposed merger, CPL will continue to own its 25.2 percent interest in both Units 1 and 2 and will remain an electric utility as defined in 10 CFR 50.2, engaged in the generation, transmission, and distribution of electric energy through rates authorized by the Public Utility Commission of Texas for retail purposes and by the Federal Energy Regulatory Commission for wholesale transactions. As an electric utility, CPL is exempt from further financial qualifications review, pursuant to 10 CFR 50.33(f).

However, in view of the NRC's concern that restructuring can lead to a diminution of assets necessary for the safe operation and decommissioning of a licensee's nuclear power plant, the NRC's practice has been to condition license transfer approvals upon a requirement that the licensee not transfer significant assets from the licensee to an affiliate without first notifying the NRC. This requirement assists the NRC in assuring that a licensee will continue to maintain adequate resources to contribute to the safe operation and decommissioning of a facility. With regard to this requirement, CPL has agreed on page 4 of its June 16, 1993 application:

to provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from CPL to its proposed parents, or to any other affiliated company, facilities for the production, transmission or distribution of electric energy having a depreciated book value exceeding ten percent of CPL's consolidated net utility plant, as recorded on its books of account.

With the foregoing a condition of the Order approving the application regarding the proposed merger, and based on the above information, the staff finds that CPL will remain financially qualified to hold the STP licenses following the proposed merger.

## 3.0 TECHNICAL QUALIFICATIONS

STP Nuclear Operating Company, the only licensee of STP authorized to operate and maintain the facility, is not involved in the proposed merger. CPL has stated in its application that the proposed merger involves no change to either the management organization or technical personnel of STP Nuclear Operating Company. Accordingly, the proposed merger does not raise any problematic technical qualifications issues.

## 4.0 ANTITRUST REVIEW

Section 105 of the Atomic Energy Act of 1954, as amended (the Act), requires the NRC to conduct an antitrust review in connection with an application for a license to construct or operate a facility under Section 103. Although AEP may become the holding company of CSW, which in turn is the holding company of CPL (a licensee for STP), i.e., may indirectly acquire control of the licenses, AEP will not be performing activities for which a license is needed.

Since approval of the application would not involve issuance of a license and since CPL as the existing licensee will remain the licensee, the procedures under Section 105 regarding antitrust reviews do not apply, including the making of any "significant changes" determination.

#### 5.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

CPL indicated in its application that it is now, and will be after the merger, a corporation organized and existing under the laws of the State of Texas. All of its directors and principal officers are citizens of the United States. The application also indicated that after the merger is implemented, CPL will be an indirect wholly-owned subsidiary of AEP. Subsequent to the merger, the Board of Directors of AEP will be composed of 15 members, to include all then current board members of AEP, the Chairman of CSW, and four additional outside directors of CSW to be nominated by AEP. The current directors of AEP and the Chairman and outside directors of CSW are U.S. citizens according to the application. Nothing in the application indicates that there will be any known changes in the memberships of these boards occurring prior to the proposed merger. Counsel for CPL confirmed on October 29, 1998, during a telephone conversation with Steven R. Horn of the Office of the General Counsel, that there are no board elections scheduled to occur prior to the merger, there is no present plan to change any current board member prior to the merger, and it is intended that all AEP board members following the merger will be U.S. citizens. The application declares that following the proposed merger, CPL will not be owned, controlled or dominated by an alien, foreign corporation, or foreign government. The staff does not know or have reason to believe otherwise.

#### 6.0 CONCLUSIONS

In view of the foregoing, the staff concludes that the proposed merger of CSW into AEP as a wholly-owned subsidiary of AEP will not adversely affect the financial qualifications of CPL with respect to the operation and decommissioning of STP. Also, there do not appear to be any problematic antitrust or foreign ownership considerations related to the STP licenses that would result from the proposed merger. Thus, the proposed merger will not affect the qualifications of CPL as a holder of the licenses, and the transfer of control of the licenses, to the extent effected by the proposed merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto. Accordingly, the NRC should approve the application regarding the proposed merger, subject to the condition discussed above concerning significant asset transfers.

Principal Contributor: A. McKeigney

Date: November 5, 1998

November 5, 1998

MEMORANDUM TO: Rules and Directives Branch  
 Division of Administrative Services  
 Office of Administration

FROM: Office of Nuclear Reactor Regulation

SUBJECT: HOUSTON LIGHTING & POWER COMPANY – SOUTH TEXAS PROJECT  
 UNITS 1 & 2

One signed original of the *Federal Register* Notice identified below is attached for your transmittal to the Office of the Federal Register for publication. Additional conformed copies (Five ) of the Notice are enclosed for your use.

- Notice of Receipt of Application for Construction Permit(s) and Operating License(s).
- Notice of Receipt of Partial Application for Construction Permit(s) and Facility License(s); Time for submission of Views on Antitrust matters.
- Notice of Consideration of Issuance of Amendment to Facility Operating License. (Call with 30-day insert date).
- Notice of Receipt of Application for Facility License(s); Notice of Availability of Applicant's Environmental Report; and Notice of Consideration of Issuance of Facility License(s) and Notice of Opportunity for Hearing.
- Notice of Availability of NRC Draft/Final Environmental Statement.
- Notice of Limited Work Authorization.
- Notice of Availability of Safety Evaluation Report.
- Notice of Issuance of Construction Permit(s).
- Notice of Issuance of Facility Operating License(s) or Amendment(s).
- Order.
- Exemption.
- Notice of Granting Exemption.
- Environmental Assessment.
- Notice of Preparation of Environmental Assessment.
- Receipt of Petition for Director's Decision Under 10 CFR 2.206.
- Issuance of Final Director's Decision Under 10 CFR 2.206.
- Other: Pls. call Veronica Williams with the 30 day date insert on page 3  
(415-1302)

DOCKET NOs. 50-498 and 50-499

Attachment(s): As stated

Contact: T. Alexion  
 Telephone: 415-1326

DOCUMENT NAME: STPA2140.ORD

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