

October 14, 2003

Mr. David G. Tees
President & CEO
Texas Genco GP, LLC
1111 Louisiana
Houston, Texas 77002

SUBJECT: SOUTH TEXAS PROJECT, UNITS 1 AND 2 - REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE PER SECTION 2.790 OF TITLE 10 OF THE CODE OF FEDERAL REGULATIONS CONCERNING APPLICATION FOR AN ORDER AUTHORIZING INDIRECT TRANSFER OF FACILITY OPERATING LICENSES (TAC NOS. MC0903 AND MC0904)

Dear Mr. Tees:

By application dated September 29, 2003, STP Nuclear Operating Company (STPNOC), acting on behalf of Texas Genco, LP (Texas Genco), requested that the U. S. Nuclear Regulatory Commission (NRC) issue an Order consenting to the indirect transfer of control of Texas Genco's ownership interest in the South Texas Project Electric Generating Station, Units 1 and 2. As part of the request of September 29, 2003, STPNOC submitted financial information concerning Texas Genco (Attachment 3A) and a September 23, 2003, affidavit (Attachment 4), signed by you, requesting that the subject information be withheld from public disclosure pursuant to Section 2.790 of Title 10 of the *Code of Federal Regulations* (10 CFR). A nonproprietary version of the subject financial information (Attachment 3) was also submitted with the application, for placement in the NRC Public Document Room.

The affidavit furnished the following information pursuant to paragraph (b)(4) of 10 CFR 2.790 of the Commission's regulations, for consideration by the Commission in determining whether the information sought to be withheld from public disclosure be withheld.

- i. This information is and has been held in confidence by Texas Genco, LP.
- ii. This information is of a type that is customarily held in confidence by Texas Genco, LP, and there is a rational basis for doing so because the information contains sensitive financial information concerning projected revenues and operating expenses of Texas Genco, LP.
- iii. This information is being transmitted to the NRC voluntarily and in confidence.
- iv. This information is not available in public sources and could not be gathered readily from other publicly available information.

- v. Public disclosure of this information would create substantial harm to the competitive position of Texas Genco, LP by disclosing its internal financial projections.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-1439.

Sincerely,

/RA/

David H. Jaffe, Senior Project Manager, Section 1
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

cc: See next page

- vi. Public disclosure of this information would create substantial harm to the competitive position of Texas Genco, LP by disclosing its internal financial projections.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-1439.

Sincerely,

/RA/

David H. Jaffe, Senior Project Manager, Section 1
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-498 and 50-499

cc: See next page

DISTRIBUTION:

PUBLIC	RidsNrrDlpmLpdiv (HBerkow)	RidsNrrLAMMcAllister
PDIV-1 R/F	RidsNrrPMDJaffe	RidsRgn4MailCenter (AHowell)
RidsOgcMailCenter	RidsNrrDlpmLpdiv1(RGramm)	BThomas

ADAMS Accession No.: ML032880765

NRR-084

OFFICE	PDIV-1/PM	PDIV-1/LA	RPRP/SC	OGC	PDIV-1/SC
NAME	DJaffe:sab	MMcAllister	BThomas	JHeck	RGramm
DATE	10/07/03	10/07/03	10/07/03	10/14/03	10/14/03

OFFICIAL RECORD COPY

South Texas Project, Units 1 and 2

cc:

Mr. Cornelius F. O'Keefe
Senior Resident Inspector
U. S. Nuclear Regulatory Commission
P. O. Box 910
Bay City, TX 77414

A. Ramirez/C. M. Canady
City of Austin
Electric Utility Department
721 Barton Springs Road
Austin, TX 78704

Mr. L. K. Blaylock
Mr. W. C. Gunst
City Public Service Board
P. O. Box 1771
San Antonio, TX 78296

Mr. C. A. Johnson/A. C. Bakken
AEP Texas Central Company
P. O. Box 289
Mail Code: N5022
Wadsworth, TX 77483

INPO
Records Center
700 Galleria Parkway
Atlanta, GA 30339-3064

Regional Administrator, Region IV
U. S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011

D. G. Tees/R. L. Balcom
Texas Genco, LP
P. O. Box 1700
Houston, TX 77251

Judge, Matagorda County
Matagorda County Courthouse
1700 Seventh Street
Bay City, TX 77414

A. H. Gutterman, Esq.
Morgan, Lewis & Bockius
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Mr. T. J. Jordan, Vice President
Engineering & Technical Services
STP Nuclear Operating Company
P. O. Box 289
Wadsworth, TX 77483

S. M. Head, Manager, Licensing
Nuclear Quality & Licensing Department
STP Nuclear Operating Company
P. O. Box 289, Mail Code: N5014
Wadsworth, TX 77483

Environmental and Natural Resources
Policy Director
P. O. Box 12428
Austin, TX 78711-3189

Jon C. Wood
Matthews & Branscomb
112 East Pecan, Suite 1100
San Antonio, TX 78205

Arthur C. Tate, Director
Division of Compliance & Inspection
Bureau of Radiation Control
Texas Department of Health
1100 West 49th Street
Austin, TX 78756

Brian Almon
Public Utility Commission
William B. Travis Building
P. O. Box 13326
1701 North Congress Avenue
Austin, TX 78701-3326

cc:

Susan M. Jablonski
Office of Permitting, Remediation
and Registration
Texas Commission on
Environmental Quality
MC-122
P.O. Box 13087
Austin, TX 78711-3087

Mr. Terry Parks, Chief Inspector
Texas Department of Licensing
and Regulation
Boiler Division
P. O. Box 12157
Austin, TX 78711

Mr. Ted Enos
4200 South Hulen
Suite 630
Ft. Worth, Texas 76109

Mr. James J. Sheppard
President and Chief Executive Officer
STP Nuclear Operating Company
South Texas Project Electric
Generating Station
P. O. Box 289
Wadsworth, TX 77483