



South Texas Project Electric Generating Station P.O. Box 289 Wadsworth, Texas 77483

May 31, 2012
NOC-AE-12002861
10 CFR 54
STI: 33555572
File: G25

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

South Texas Project
Units 1 and 2
Docket Nos. STN 50-498, STN 50-499
Response to Requests for Additional Information for the
South Texas Project License Renewal Application
Aging Management Program, Set 19 (TAC Nos. ME4936 and ME4937)

- References: 1. STPNOC letter dated October 25, 2010, from G. T. Powell to NRC Document Control Desk, "License Renewal Application" (NOC-AE-10002607) (ML103010257)
2. NRC letter dated May 22, 2012, "Requests for Additional Information for the Review of the South Texas Project, Units 1 and 2 License Renewal Application – Aging Management, Set 19 (TAC Nos. ME4936 and ME 4937)" (ML12143A031)

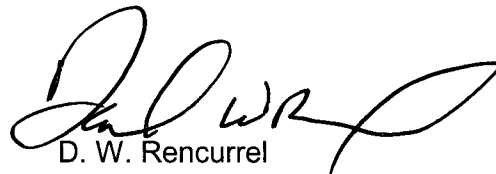
By Reference 1, STP Nuclear Operating Company (STPNOC) submitted a License Renewal Application (LRA) for South Texas Project (STP) Units 1 and 2. By Reference 2, the NRC staff requests additional information for review of the STP LRA. STPNOC's response to the requests for additional information is provided in the Enclosure to this letter.

There are no regulatory commitments in this letter.

Should you have any questions regarding this letter, please contact either Arden Aldridge, STP License Renewal Project Lead, at (361) 972-8243 or Ken Taplett, STP License Renewal Project regulatory point-of-contact, at (361) 972-8416.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 5/31/2012
Date


D. W. Rencurrel
Chief Nuclear Officer

KJT

Enclosure: STPNOC Response to Requests for Additional Information

A147
NRR

cc:

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Enclosure

STPNOC Response to Requests for Additional Information

Attachment 1: Charter of the Nuclear Oversight Committee of the Board of Directors of NRG Energy, Inc.

Attachment 2: NRG Energy, Inc. Letter to Board of Directors of NRG Energy, Inc. "Nuclear Oversight Committee", dated April 18, 2006

Foreign Ownership or Control (01.3)

RAI 1.1.4-2

Background:

In its December 21, 2010, response to the U.S. Nuclear Regulatory Commission (NRC or Commission) staff's request for additional information issued on December 15, 2010, South Texas Project Nuclear Operating Company (STPNOC), provided information regarding how it plans to mitigate foreign control or domination over activities licensed by the NRC, including, but not limited to, matters relating to nuclear safety, security, and responsibility for special nuclear material in order for the NRC staff to determine if the aforementioned statute and regulatory requirements have been met. On December 9, 2011, NRG Energy Inc. (NRG) filed a Schedule 13G with the U.S. Securities and Exchange Commission (SEC) indicating an 11 percent ownership interest in NRG by Orbis Management Ltd. and Orbis Asset Management Ltd., both of which are in Bermuda entities. In addition, the NRC staff has identified that the Chief Risk Officer of NRG is a citizen of Canada. Based on NRG's Annual Reports filed with the SEC, the responsibilities of the Chief Risk Officer include oversight of certain financial functions.

Issue:

The Commission's regulations under Title 10 of the *Code of Federal Regulations* (10 CFR) Section 54.17(b) states that:

Any person who is a citizen, national, or agent of a foreign country, or any corporation, or other entity which the Commission knows or has reason to know is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, is ineligible to apply for and obtain a renewed license.

Request:

To complete its review, the staff requires the following additional information:

- a) Describe the type of shares (e.g., common or preferred stock) and shareholder rights of the shares of NRG that Orbis Management Ltd. and Orbis Asset Management Ltd. own as a result of the December 9, 2011, Schedule 13G filing with the SEC. In addition, state what rights Orbis Management Ltd., and Orbis Asset Management Ltd. will have to participate in matters affecting the management or operation of the STPNOC, including, but not limited to, the right to nominate any Director(s) to STPNOC's Board of Directors.
- b) State whether there are any procedures in place to assure that Orbis Management Ltd. and/or Orbis Asset Management Ltd. shareholder rights in NRG, or any foreign entity 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.

- c) State whether there are any unanimous consent requirements for decisions made by the Board of Directors and whether Orbis Management Ltd. and/or Orbis Asset Management Ltd. will have any right to participate in unanimous decisions. If so, provide a list of their rights.
- d) Describe the legal, contractual or financial arrangements, if any, between STPNOC, the three co-owners of STP Units 1 and 2 (the City of Austin, CPS Energy, and NRG South Texas, LP), Orbis Management Ltd., and Orbis Asset Management Ltd., or any foreign entity or any entity that is owned, controlled, or dominated, directly or indirectly, by a foreign entity.
- e) Describe the Chief Risk Officer's roles, responsibilities, and authority over STP Units 1 and 2 regarding NRC activities, specifically as they relate to nuclear safety, security, reliability, or special nuclear material. In addition, state whether there are any procedures in place to assure that non-U.S. citizen Directors or Officers 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.

STPNOC Response:

- a) The securities held by Orbis Management Ltd. and Orbis Asset Management Ltd. (Orbis) are Common Stock of NRG Energy, Inc. (NRG). This is listed in Item 2(d) of the Schedule 13G dated December 9, 2011, as well as subsequent Schedule 13G filings, including the most recent filing dated April 3, 2012. Orbis has the same shareholder voting rights with respect to these shares of Common Stock as NRG's other shareholders. Orbis has no right to participate in matters affecting the management or operation of the STPNOC, and Orbis has no right to nominate any Director(s) to STPNOC's Board of Directors.

The April 3, 2012, Schedule 13G filing reports that, as of December 31, 2011, Orbis held 5.3% of the shares of NRG. Consistent with the SEC requirements in 17 CFR 240.13d-1(b)(1)(i), Orbis has certified that its shares of NRG Common Stock "were not acquired and are not held for the purpose of or with the effect of changing or influencing the control of the issuer of the securities and were not acquired and are not held in connection with or as a participant in any transaction having that purpose or effect."

- b) Orbis does not have any shareholder rights in NRG that could result in Orbis participating in decisions concerning nuclear safety or security; obtaining responsibility for special nuclear material; or gaining access to restricted data through its status as an NRG shareholder. None of NRG's shareholders has any right to participate in decisions concerning nuclear safety or security, has any ability to obtain control or responsibility for special nuclear material, or has any way of gaining access to restricted data. STPNOC maintains control over nuclear safety and security, and it also has control and responsibility for any special nuclear material possessed pursuant to the licenses issued to STPNOC and the STP 1 and 2 co-owners. NRG South Texas LP is a licensed owner, but

it does not possess any special nuclear material. Moreover, STPNOC, NRG and NRG South Texas LP do not possess any restricted data.

- c) No decisions made by NRG's Board of Directors or shareholders are required to be made by unanimous consent. Thus, no shareholder of NRG has any unanimous consent rights. As such, Orbis has no right to participate in any "unanimous decisions."
- d) The legal, contractual or financial arrangements between STPNOC and the three co-owners of STP 1 and 2 are described in the December 21, 2010 letter from STPNOC to the NRC (ML103570142) in response to the NRC staff's request for additional information issued on December 15, 2010 regarding the License Renewal Application for STP 1 and 2. Other than Orbis being a shareholder of NRG, neither STPNOC nor NRG is aware of any legal, contractual or financial arrangements between Orbis and STPNOC, or between Orbis and any of the three co-owners of STP 1 and 2.
- e) The Chief Risk Officer has no role, responsibility, or authority over STP, Units 1 and 2, regarding NRC-regulated activities, specifically as they relate to nuclear safety, security, reliability, or special nuclear material, STP Units 1 and 2 nuclear decommissioning fund decisions, or other financial matters regulated by the NRC.

NRG maintains nuclear decommissioning trusts funds for purposes of complying with 10 CFR 50.75, and the trust funds are administered by a Trustee, The Bank of New York Mellon, *i.e.*, the trust funds are outside the administrative control of NRG in accordance with NRC requirements. NRG activities related to the trust funds are managed by NRG's Treasury Department. NRG's Treasurer reports directly to and is responsible to the Chief Financial Officer (CFO). The Chief Risk Officer also reports to the CFO, and the Chief Risk Officer has no oversight authority for activities of the Treasury Department.

Significantly, the NRG trust funds are subject to the ongoing jurisdiction and oversight of the Public Utility Commission of Texas (PUCT). Through its regulations and Orders, the PUCT imposes investment standards and other requirements on the trust funds, and the PUCT establishes the amounts of annual collections from ratepayers to be deposited into the trust funds. The PUCT also imposes annual reporting requirements.

Additional Information

The above responses demonstrate that there is no potential for foreign ownership, control or domination (FOCD) to be exercised over the STP Units 1 and 2 licenses. Therefore, no further FOCD mitigation measures are necessary. Nevertheless, NRG previously established a Nuclear Oversight Committee (NOC) of the NRG Board and a Nuclear Oversight Subcommittee. These committees are made up entirely of U.S. citizens, and Board authority has been delegated to the Nuclear Oversight Subcommittee over any matters that could have implications for compliance with 10 CFR 50.38. A copy of the Charter of the NOC is provided in Attachment 1, and a copy of the delegation of actions to the Nuclear Oversight Subcommittee is provided in Attachment 2.

NRG reserves the option to abolish the NOC and the Nuclear Oversight Subcommittee. In fact, by Application dated May 3, 2007, (STPNOC letter NOC-AE-07002155, ML071340049),

STPNOC sought NRC approval on behalf of NRG for the creation of a parent holding company of NRG without any obligation to continue to maintain the NOC. The License Transfer Application indicated that NRG did not believe any FOCD mitigation was necessary and that NRG did not intend to continue to maintain the NOC for the purpose of FOCD mitigation, though it might do so for its own business purposes (License Transfer Application, pages 9-10). The License Transfer Application provided information regarding a foreign citizen director of NRG, foreign citizen executive of NRG, and Orbis owning 5.9% of the voting common stock of NRG. The NRC staff's October 22, 2007 Safety Evaluation (ML072290444) recited these facts and concluded as follows:

Based upon the information provided above, the NRC staff does not know or have reason to believe that the proposed formation of NRG Holdings, Inc., and the resulting transfer of indirect control of NRG South Texas licenses, would result in any foreign ownership, control, or domination of NRG South Texas or STPNOC.

The NRC staff concludes that under the proposed indirect transfer, the requirements of 10 CFR 50.38 will continue to be met.

Thus, the NRC staff agreed that no mitigation measures were necessary.

Attachment 1

**CHARTER OF THE
NUCLEAR OVERSIGHT COMMITTEE
OF THE BOARD OF DIRECTORS
OF NRG ENERGY, INC.
(3 pages)**

**CHARTER OF THE
NUCLEAR OVERSIGHT COMMITTEE
OF THE BOARD OF DIRECTORS
OF NRG ENERGY, INC.**

1. Purpose. The Board of Directors (the “Board”) of NRG Energy, Inc. (the “Company”) shall appoint a Nuclear Oversight Committee (the “Committee”) to provide oversight with respect to the Company’s ownership and operation, directly or indirectly, of its undivided interest in the South Texas Project Electric Generating Station, Unit Nos. 1 and 2 (“STP”) and its interest in STP Nuclear Operating Company (“STPNOC”), and such other interests in nuclear power plant facilities as the Company may hold from time to time.

2. Members. The Board shall appoint the Committee, which shall consist of all of the members of the Board who are citizens of the United States of America and who otherwise meet the requirements of applicable law to serve on the Committee, and will designate one member as chairperson. A majority of the members of the Committee, including the chairperson, shall be independent directors. For purposes hereof, an independent director is a director who meets the definition of “independent director” under the listing standards of the New York Stock Exchange and is affirmatively determined to be “independent” by the Board. Each member of the Committee shall serve for a term commencing on the earlier of the adoption of this Charter or the date of election to the Board and ending when such member’s term as a director expires or such director becomes ineligible by law to serve on the Committee.

3. Duties and Responsibilities. The duties and responsibilities of the Committee shall be as follows:

(a) Except as otherwise provided in Section 4 of this charter, the Committee shall have sole discretion and decision-making authority on behalf of the Company as to all matters involving Safety Issues with respect to its ownership interest in STP, STPNOC, and other any nuclear power plant facilities in which the Company may hold any interests. Any powers that the Board generally might otherwise have with respect to matters involving Safety Issues are, except as otherwise expressly provided in this charter, permanently and irrevocably delegated to the Committee. For purposes hereof, Safety Issues are matters which concern any of the following:

(i) implementation or compliance with any Generic Letter, Bulletin, Order, Confirmatory Order or similar requirement issued by the Nuclear Regulatory Commission (“NRC”);

(ii) prevention or mitigation of a nuclear event or incident or the unauthorized release of radioactive material,

(iii) placement of a nuclear power plant in a safe condition following any nuclear event or incident;

(iv) compliance with the Atomic Energy Act of 1954, as amended (“AEA”), the Energy Reorganization Act, or any NRC rule or applicable successor legislation or rule;

(v) compliance with a specified NRC license and its technical specifications; or

(vi) compliance with a specific Updated Final Safety Analysis Report, or other licensing basis document;

provided that any matter which the Committee shall vote in accordance with this charter that is not substantially or primarily one of nuclear safety shall not constitute a Safety Issue, so that, for purposes of illustration only, any plant expenditure of a material nature intended to extend the economic operational life or improve the economic performance of the nuclear power plant in question shall not be considered a Safety Issue.

(b) The Committee shall report to the Board periodically with respect to its activities.

(c) The Committee shall perform such other responsibilities as may be further delegated to it by the Board from time to time that are consistent with its purpose and this charter.

4. Certain Decisions Reserved to the Board of Directors. Notwithstanding Section 3 of this charter, with respect to any nuclear power facility in which the Company has a direct or indirect interest, the full Board shall have, after consultation with the Committee, the following rights:

(a) the right to vote as to whether or not to close a facility and begin its decommissioning, and as to whether to seek relicensing;

(b) the right to decide to sell, lease, or otherwise dispose of the Company’s interest in a nuclear power plant facility;

(c) the right to take any action which is ordered by the NRC or any other agency or court of competent jurisdiction.

5. Subcommittees. The Committee may form subcommittees for any purpose that the Committee deems appropriate and may delegate to such subcommittees such power and authority as the Committee deems appropriate; provided, however, that no subcommittee shall consist of fewer than three members; provided, further, that no such subcommittee shall be delegated the power and authority to act for the Committee unless such subcommittee consists of a majority of independent directors.

6. Outside Advisors. The Committee, and any subcommittee, shall have the authority to retain at the expense of the Company such outside counsel, experts, and other advisors as it determines appropriate to assist it in the full performance of its functions.

7. Meetings. The Committee, and any subcommittee will meet as often as may be deemed necessary or appropriate, in its judgment, either in person or telephonically, and at such times and places as the Committee determines. The majority of the members of the Committee (or any subcommittee) shall constitute a quorum. The Committee, and any subcommittee, shall maintain minutes of its meetings and records related to those meetings and shall report periodically to the full Board (or the Committee, as the case may be) with respect to its activities.

8. Access to Restricted Information. To the extent that the Company, by virtue of its ownership of any direct or indirect interest in any nuclear power facility, obtains any so-called "Restricted Data" as to which access is restricted pursuant to the provisions of the AEA, or any rules, regulations or orders of the NRC, access to such information shall be limited solely to the members of the Committee, and the members of Committee shall not, without the permission of the NRC, reveal any such information to any foreign citizen or other person with whom it shall be unlawful to share any such information.

9. Amendments. Notwithstanding Article VIII of the Company's By-laws, the provisions of this Charter shall not be materially changed, amended, or repealed without the prior consent of the NRC, unless and until (i) the provisions of the Atomic Energy Act are amended to remove the current provisions thereof restricting foreign ownership, control, or domination of nuclear power facilities, or (ii) the Company shall, with the prior written consent of the NRC, have transferred or disposed of all of its interests, direct or indirect, in the licenses for any nuclear power facilities. In the event that either such condition shall have been met, the Company shall, prior to amending or repealing the provisions of this Charter, notify the NRC of its intent to effect such amendment or repeal.

Attachment 2

**NRG Energy, Inc. Letter to
Board of Directors of NRG Energy, Inc.
“Nuclear Oversight Committee”**

Dated April 18, 2006

(4 pages)



NRG Energy, Inc.
211 Carnegie Center
Princeton, NJ 08540

Date April 18, 2006

To Board of Directors of NRG Energy, Inc.

From Tim O'Brien and Tanuja Dehne

Subject Nuclear Oversight Committee

This memorandum describes the steps to be taken by the Board of Directors, the Nuclear Oversight Committee, the Nuclear Oversight Subcommittee, and members of NRG management with respect to the establishment and smooth function of the three-person subcommittee of the Nuclear Oversight Committee.

A. Actions by Nuclear Oversight Committee.

The Nuclear Oversight Committee should approve the following resolutions. This can be done during the NRG Board meeting on April 28, with Maureen Miskovic abstaining.

RESOLVED, that a subcommittee (the "Subcommittee") of the Nuclear Oversight Committee (the "Committee") shall be, and hereby is, created, and that the following directors be and hereby are appointed, effective immediately, each to serve in such capacity until the due appointment and qualification of his or her successor:

**Herbert H. Tate (Chair)
Anne C. Schaumburg
Paul W. Hobby**

FURTHER RESOLVED, that the Committee hereby delegates to the Subcommittee the authority to act on behalf of the Committee with respect to all matters that are within the scope of the Committee's charter or otherwise delegated to the Committee by the Board of Directors of the Company from time to time.

FURTHER RESOLVED, that attendance by a majority of the members of the Subcommittee at any meeting of the Subcommittee shall constitute a quorum necessary and sufficient to transact business; that the act of a majority of those present at any meeting shall be the act of the Subcommittee; that notice of each meeting of the Subcommittee shall be deemed to have been duly given by any member causing to be delivered, not less than 24 hours prior to the meeting, to the office of each member shown on the records of the Company, written, telephonic, telegraphic, email or facsimile notice of the location, date, time and purpose of the meeting; that a written waiver of notice signed by a member, whether executed before or after the meeting, shall be deemed equivalent to a notice; that attendance and participation in a meeting may take place by conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other; and that any action required or permitted to be taken by the Subcommittee may be taken without a meeting if all members of the Subcommittee consent thereto in writing in accordance with the provisions of the Delaware General Corporation Law.

Commentary. By these resolutions, the Nuclear Oversight Committee effectively delegates all matters to a three-person subcommittee, which will thereafter be the working entity of the Board with respect to oversight of nuclear issues.

B. Actions by Full Board.

The Board should approve the following resolution at the April 28 meeting:

RESOLVED, that the Board of Directors of the Company (the “Board”) hereby delegates to the Nuclear Oversight Committee the authority to act on behalf of the Board with respect to all matters relating to the Company’s investment in the South Texas Project Generating Station, Unit Nos. 1 and 2 and the Company’s interest in STP Nuclear Operating Company, except those matters that are expressly reserved to the Board in the Charter of the Nuclear Oversight Committee.

Commentary. There is a need for this resolution because the only matters that were specifically delegated to the Nuclear Oversight Committee by the Board in October 2005 were matters relating to security and safety at STP. The Committee charter provides that the Committee’s responsibilities will also include “such other responsibilities as may be further delegated to it by the Board from time to time that are consistent with its purpose and this charter.”

By the foregoing resolution, the Board will formally delegate all STP issues to the Committee, other than the following issues, which are reserved to the full Board pursuant to the Committee's charter:

- (a) the right to vote as to whether or not to close a facility and begin its decommissioning, and as to whether to seek relicensing;
- (b) the right to decide to sell, lease, or otherwise dispose of the Company's interest in a nuclear power plant facility;
- (c) the right to take any action which is ordered by the NRC or any other agency or court of competent jurisdiction.

C. Actions by Subcommittee.

The Subcommittee should approve the following resolutions. This can be done by unanimous written consent, after the April 28 meeting.

RESOLVED, that the President and/or Chief Executive Officer of the Company be, and hereby is, authorized in the name of and on behalf of the Company to take all actions with respect to the Company's investments and other interests in the South Texas Project Generating Station, Unit Nos. 1 and 2 ("STP") and STP Nuclear Operating Company, to the extent such actions are consistent with the 2006 budget of STP or are otherwise necessary or appropriate for the safety, security or ordinary course business and operations of STP.

FURTHER RESOLVED, that the President and/or Chief Executive Officer be, and hereby is, authorized to delegate the authority set forth herein to any officer or other agent of the Company, and the President and/or Chief Executive Officer shall document any such delegation of authority.

FURTHER RESOLVED, that any previous actions by the President and/or Chief Executive Officer that have been taken pursuant to their respective duties and obligations are hereby approved, confirmed and ratified in every respect.

Commentary. By these resolutions, the subcommittee will authorize David Crane, as President and CEO, to act on behalf of the Company with respect to our 44% interest in STP in matters relating to the ordinary course of business, or to delegate that authority to others. This will provide clear authority to representatives of NRG who sit on the Board of STP or have other oversight of the STP investment.

Matters that are not contemplated by the 2006 budget for STP, or that are not otherwise in the ordinary course of business, will require the review and approval of the Subcommittee.

D. NRG Management and Staff Support for Subcommittee.

Steve Winn will be the lead management liaison with the Subcommittee. Eddy Daniels, Regional General Counsel for NRG Texas, will be the Legal Department liaison for the Subcommittee, and will act as Secretary to the Subcommittee. Eddy will work with Steve Winn and Herb Tate to develop a calendar and work plan for the Subcommittee for 2006-07, and where feasible will coordinate the Subcommittee's meetings with scheduled meetings of the STP Board.