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U7-C-NINA-NRC-150010

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

South Texas Project
Units 3 and 4
Docket Nos. 52-012 and 52-013
Response to Request for Additional Information

Attached is the Nuclear Innovation North America, LLC (NINA) response to NRC staff questions in Request for Additional Information (RAI) letter 450 related to SRP Chapter 1.4. The attachment to this letter contains the response to the following RAI questions:

01-27

01-28

01-29

01-30

No COLA changes are required by this response.

There are no commitments in this submittal.

If you have any questions, please contact Scott Head at (979) 316-3011 or Bill Mookhoek at (979) 316-3014.

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

Executed on 8-4-2015

Mark McBurnett
Chief Executive Officer and Chief Nuclear Officer
Nuclear Innovation North America LLC

Attachment: RAI Question Responses

DO91
NRO

Cc: w/o attachment except*
(paper copy)

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RAI 01-27

QUESTION

In accordance with 10 CFR 50.75(b)(1), a COL applicant must certify that financial assurance for decommissioning will be provided, no later than 30 days after the Commission publishes notice in the Federal Register under § 52.103(a), in an amount which may be more, but not less, than the amount stated in 10 CFR 50.75(c). Section 50.75(b)(3) further provides that the amount must be covered by one or more of the methods described in 10 CFR 50.75(e) as acceptable to the NRC. Section 50.75(e)(1)(i) through (v) outlines five acceptable mechanisms for providing financial assurance. Section 50.75(e)(1)(vi) allows reliance on other mechanisms if the NRC determines, based on its evaluation of the specific circumstances, that such mechanisms provide assurance of decommissioning funding equivalent to that provided by the mechanisms specified in Section 50.75(e)(1)(i) through (v). NINA cites in its application, reliance on Texas law, Texas Utility Code Ann. § 39.206, and Public Utility Commission (PUC) Substantive Rule 25.304, "Nuclear Decommissioning Funding and Requirements for Power Generation Companies," for establishing reasonable assurance for decommissioning funding. In order to rely on this Texas law and rule, a Power Generation Company (PGC) must, among other things, comply with the State Funding Assurance Obligation requirements in PUC Substantive Rule 25.304(k).

To create a decommissioning trust pursuant to PUC Substantive Rule 25.304, NINA 3 and NINA 4 must meet Section 25.304(k) with regard to the State Assurance Obligation. Provide supporting evidence that NINA 3 and NINA 4 can meet the several requirements in Section 25.304(k). Specifically identify how NINA intends to meet these requirements, including the funding method requirements in Section 25.304(k)(1), (2), (3), or (4), as applicable.

RESPONSE

NINA anticipates that it will satisfy the state assurance obligation by depositing the required amount of funds in its nuclear decommissioning trust in accordance with PUC Substantive Rule 25.304(k)(1).

RAI01-28

QUESTION

In accordance with 10 CFR 50.75(b)(1), a COL applicant must certify that financial assurance for decommissioning will be provided, no later than 30 days after the Commission publishes notice in the Federal Register under § 52.103(a), in an amount which may be more, but not less, than the amount stated in 10 CFR 50.75(c). Section 50.75(b)(3) further provides that the amount must be covered by one or more of the methods described in 10 CFR 50.75(e) as acceptable to the NRC. Section 50.75(e)(1)(i) through (v) outlines five acceptable mechanisms for providing financial assurance. Section 50.75(e)(1)(vi) allows reliance on other mechanisms if the NRC determines, based on its evaluation of the specific circumstances, that such mechanisms provide assurance of decommissioning funding equivalent to that provided by the mechanisms specified in Section 50.75(e)(1)(i) through (v).

NINA cites in its application, reliance on Texas law, Texas Utility Code Ann. § 39.206, and Public Utility Commission (PUC) Substantive Rule 25.304, "Nuclear Decommissioning Funding and Requirements for Power Generation Companies," for establishing reasonable assurance for decommissioning funding. In order to rely on this Texas law and rule, a Power Generation Company (PGC) must, among other things, comply with the State Funding Assurance Obligation requirements in PUC Substantive Rule 25.304(k).

Explain what the "Decommissioning Fund Collateral" value identified in COL Application, Part 1, Table 1.3-2, is to be used for, how it is funded, and any connection to the State of Texas Nuclear Decommissioning Fund regulatory code or statutes.

RESPONSE

Table 1.3-2 sets forth the "Sources and Uses" of funds for STP Units 3& 4. This reflects NINA's assumption that in the planned project financing structure NINA will obtain unsecured debt in order to fund certain expected cash requirements in whole or part, such as working capital and debt reserve requirements that are expected to be demanded by the project lenders. Among the requirements expected to be funded with unsecured debt is the posting of collateral to meet the state assurance obligation relating to the decommissioning fund pursuant to PUC Substantive Rule 25.304(k)(1), *i.e.*, from the financing NINA expects to deposit the cash amount stated in Table 1.3-2 in its nuclear decommissioning trust. This cash amount is included as a "Cash Use" in the line item titled "Decommissioning Fund Collateral."

RAI 01-29

QUESTION

In accordance with 10 CFR 50.75(b)(1), a COL applicant must certify that financial assurance for decommissioning will be provided, no later than 30 days after the Commission publishes notice in the Federal Register under § 52.103(a), in an amount which may be more, but not less, than the amount stated in 10 CFR 50.75(c). Section 50.75(b)(3) further provides that the amount must be covered by one or more of the methods described in 10 CFR 50.75(e) as acceptable to the NRC. Section 50.75(e)(1)(i) through (v) outlines five acceptable mechanisms for providing financial assurance. Section 50.75(e)(1)(vi) allows reliance on other mechanisms if the NRC determines, based on its evaluation of the specific circumstances, that such mechanisms provide assurance of decommissioning funding equivalent to that provided by the mechanisms specified in Section 50.75(e)(1)(i) through (v). NINA cites in its application, reliance on Texas law, Texas Utility Code Ann. § 39.206, and Public Utility Commission (PUC) Substantive Rule 25.304, "Nuclear Decommissioning Funding and Requirements for Power Generation Companies," for establishing reasonable assurance for decommissioning funding. In order to rely on this Texas law and rule, a Power Generation Company (PGC) must, among other things, comply with PUC Substantive Rule 25.304.

Texas regulations at PUC Substantive Rule 25.304(h)(2) require "[c]onfirmation that the federal Nuclear Regulatory Commission either has made, or will make, a finding that there is reasonable assurance of the financial qualifications" of NINA 3 and NINA 4, "as required by federal regulations." In light of NINA's proposed use of an exemption to the NRC's current "reasonable assurance" financial qualification requirement, provide information establishing the ability of NINA 3 and NINA 4 to satisfy this PUC requirement.

RESPONSE

NINA actively participated in the development of the Texas legislation that established the option for "merchant" power generation companies (PGCs) to use the external sinking fund method set forth in 10 CFR 50.75(e)(ii). It also was involved in the rulemaking process conducted by the Public of Utility Commission of Texas (PUCT) to establish PUC Substantive Rule 25.304. In undergoing these efforts, NINA believes that both the Texas legislature and the PUCT were in favor of promoting the development of new nuclear plants in the State of Texas. Therefore, NINA believes that the PUCT will encourage and facilitate efforts of PGCs to elect to use a PGC decommissioning trust that is subject to PUCT oversight.

As part of the licensing process, NINA expects the NRC to include one or more license conditions in the COL that requires NINA to satisfy requirements prior to the start of construction that would establish NINA's financial qualifications. By satisfying the license condition, NINA would provide reasonable assurance to the NRC of its financial qualifications. NINA anticipates that it would submit its application to the PUCT electing to use a PGC decommissioning trust after it has begun construction and during the time leading up to its planning for STP Nuclear Operating Company (STPNOC) to load fuel and commence commercial operation of STP Units 3 & 4. Thus, at the time of expected application to the PUCT, NINA will have already secured all of the required loans and equity commitments to close on the planned project financing, and it will have satisfied its license conditions relating to financial qualifications.

Given that financial qualifications is an ongoing requirement, *see, e.g.,* Administrative Letter 96-02, it can be presumed that the NRC would take some affirmative action if it had reason to believe the licensees were not financially qualified. Moreover, NINA will have satisfied one or more license conditions relating to financial qualifications. Thus, NINA believes that the PUCT will have adequate foundation to conclude that the requirements of PUC Substantive Rule 25.304 have been met at the time the PUCT approves NINA's application to elect to use a decommissioning trust pursuant to PUC Substantive Rule 25.304. If changes in NRC's regulations are made affecting the standards for determining financial qualifications, NINA can request that the PUCT revise its regulations to reflect the new federal standards.

RAI 01-30

QUESTION

In accordance with 10 CFR 50.75(b)(1), a COL applicant must certify that financial assurance for decommissioning will be provided, no later than 30 days after the Commission publishes notice in the Federal Register under § 52.103(a), in an amount which may be more, but not less, than the amount stated in 10 CFR 50.75(c). Section 50.75(b)(3) further provides that the amount must be covered by one or more of the methods described in 10 CFR 50.75(e) as acceptable to the NRC. Section 50.75(e)(1)(i) through (v) outlines five acceptable mechanisms for providing financial assurance. Section 50.75(e)(1)(vi) allows reliance on other mechanisms if the NRC determines, based on its evaluation of the specific circumstances, that such mechanisms provide assurance of decommissioning funding equivalent to that provided by the mechanisms specified in Section 50.75(e)(1)(i) through (v). NINA cites in its application, reliance on Texas law, Texas Utility Code Ann. § 39.206, and Public Utility Commission (PUC) Substantive Rule 25.304, "Nuclear Decommissioning Funding and Requirements for Power Generation Companies," for establishing reasonable assurance for decommissioning funding. In order to rely on this Texas law and rule, a Power Generation Company (PGC) must, among other things, comply with PUC Substantive Rule 25.304.

Per 10 CFR 50.75(e)(3), "No later than 30 days after the [U.S. Nuclear Regulatory] Commission publishes notice in the *Federal Register* under 10 CFR 52.103(a), the licensee shall submit a report containing a certification that financial assurance for decommissioning is being provided in an amount specified in the licensee's most recent updated certification, including a copy of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section." Should NINA 3 and NINA 4 be unable to meet Texas requirements under PUC Substantive Rule 25.304, describe what other method or methods they will take to provide assurance of decommissioning funding per §§ 50.75(e)(1) and 50.75(e)(3).

RESPONSE

If it is unable to provide decommissioning funding assurance using the external sinking fund method, because it is unable to satisfy the Texas requirements under PUC Substantive Rule 25.304, NINA expects that its subsidiaries most likely will use the "prepayment" method of assurance set forth in 10 CFR 50.75(e)(1)(i). NINA Texas 3 LLC (NINA 3) and NINA Texas 4 LLC (NINA 4) would certify decommissioning funding assurance based upon the formula amount for each unit calculated pursuant to 10 CFR 50.75(c). NINA 3 and NINA 4 would deposit an amount of cash in a nuclear trust fund for each unit, and each trust fund would be segregated from NINA's assets and outside the administrative control of NINA 3, NINA 4 and their affiliates. The amount of cash for

the NINA 3 and NINA 4 share for each unit (92.375%) would be sufficient to pay decommissioning costs at the permanent termination of operations for each unit is expected, when taking credit for projected earnings on the prepaid decommissioning trust funds using a 2% annual real rate of return for existing assets and from the time of future funds collection (earnings) up to the time of expected permanent cessation of operations, and by taking a *pro-rata* 2% annual real rate of return credit during the immediate dismantlement period taking into account both cash expenditures and earnings for the first seven years after shutdown. This is the equivalent of 3.5 years of credit for earnings using a 2% annual real rate of return.

NINA had previously calculated the formula amount for each unit as \$559,906,800, which for the prepayment method would require an initial deposit of cash in the trust fund for each unit in the amount of approximately \$236.6 million. The required cash for each unit would be generated through either loans or equity contributions, or a combination thereof, in the planned project financing.

It is also possible that NINA may be able to use one of the other financial assurance methods authorized by 10 CFR 50.75(e).