



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

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

PROPOSED TRANSFER OF AUTHORITY TO NEW OPERATING COMPANY

FACILITY OPERATING LICENSES NOS. NPF-76 AND NPF-80

HOUSTON LIGHTING & POWER COMPANY

CITY PUBLIC SERVICE BOARD OF SAN ANTONIO

CENTRAL POWER AND LIGHT COMPANY

CITY OF AUSTIN, TEXAS

DOCKET NOS. 50-498 AND 50-499

SOUTH TEXAS PROJECT, UNITS 1 AND 2

1.0 INTRODUCTION

By letter dated August 23, 1996, as supplemented by letters dated October 1 and 15, 1996, and January 28, 1997, Houston Lighting and Power Company (HL&P or licensee), on behalf of itself and the other three owners of the South Texas Project, Units 1 and 2 (STP), City Public Service Board of San Antonio, Central Power and Light Company, and City of Austin, Texas (owners), requested approval of the transfer of operating authority under Facility Operating Licenses Nos. NPF-76 and NPF-80 for STP to a new operating company and issuance of conforming amendments, pursuant to 10 CFR 50.80 and 50.90. The proposed transfer of operating authority under the licenses would allow a new operating company to use and operate STP and to possess and use related licensed nuclear materials in accordance with the same conditions and authorizations included in the current operating licenses. The proposed license amendments would reflect the transfer of operating authority. This Safety Evaluation is in regard to the proposed transfer.

2.0 BACKGROUND

The licensee states that the new operating company would be formed by the owners to become the licensed operator for STP and would have exclusive control over the operation and maintenance of the facility. The present plant organization, the oversight organizations, and the engineering and support organizations would be transferred essentially intact from HL&P, which is now responsible for operating and maintaining the facility, to the new operating company. The technical qualifications of the new operating company organization, therefore, would be at least equivalent to those of the existing organization.

The licensee also states that under the proposed arrangement, ownership of STP would remain unchanged, with each owner retaining its current ownership interest. The new operating company would not own any portion of STP.

Likewise, the owners' entitlement to capacity and energy from STP would not be affected by the proposed change in operating responsibility for STP from HL&P to the new operating company. The owners would continue to provide all funds for operation, maintenance, and decommissioning by the operating company of STP. The responsibility of the owners would include funding for any emergency situations that might arise at STP.

Pursuant to 10 CFR 50.80, no license for a production or utilization facility, or any right thereunder, shall be transferred, assigned, or in any manner disposed of either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. The Commission may approve the transfer of control of a license, after notice to interested persons (November 7, 1996 (61 FR 57719)). Such action is contingent upon the Commission's determination that the proposed transferee is qualified to hold the license and the transfer of the license is otherwise consistent with the applicable provisions of law, regulations, and orders of the Commission.

3.0 ANTITRUST CONSIDERATIONS

In its application submitted August 23, 1996, the licensee stated that the plan for the new operating company to operate STP would not impact the existing ownership of STP or the existing ownership of, or entitlement to, power from the facility. The new operating company is to be solely dedicated to the operation of STP and will not be involved in the marketing or brokering of power from the facility. The licensee further stated that the designation of the new operating company as the entity authorized to use and operate STP would not alter the existing antitrust license conditions, which would remain applicable to all the owners. The licensee concluded that the requested changes would have no impact on the local market for electricity and would raise no antitrust issues affecting that market.

The licensee's application proposes a license condition for each STP unit prohibiting the new non-owner operator from engaging in marketing or brokering power or energy from the facility and holding the existing owners responsible and accountable for the actions of the operator.

In consideration of the foregoing, and with the imposition of the above condition, the proposed transfer of operating authority raises no issue with respect to antitrust considerations. The staff has determined, therefore, that no further antitrust review is required.

4.0 MANAGEMENT OF UTILITY OPERATION AND TECHNICAL QUALIFICATIONS

In its application, the licensee states that the new operating company would assume responsibility for, and control over, operation and maintenance of the facility. The current plant organization, the oversight organizations, and the engineering and support organizations would be transferred essentially intact from HL&P to the new operating company. The technical qualifications of the proposed operating organization, therefore, would be at least equivalent to those of the existing organization.

The licensee also states that a central objective in planning the proposed transfer of employees and operating responsibilities from HL&P to the new operating company has been to ensure that there is no disruption to the operation of the plant and to respect the integrity of the existing, successful organization. According to the licensee, the new operating company will operate, manage, and maintain STP in accordance with the conditions and requirements established by the NRC, with the same regard for public and personal safety heretofore exemplified by HL&P. The nuclear organization of STP will be preserved in the proposed operating company organization, with the only change being that the senior nuclear executive will report directly to the Board of Directors of the operating company rather than to the President and Chief Operating Officer of HL&P. Thus, the current HL&P Executive Vice President and General Manager, Nuclear, of STP will become the President and Chief Executive Officer of the new operating company and will continue to be the officer at the site responsible for the overall safe operation and maintenance of STP.

Based upon the continuity of management and technical qualifications described above, the staff finds that the proposed operating company will be technically qualified to operate STP and that management of the facility will continue to be adequate.

5.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

The new operating company will be owned only by Houston Lighting and Power Company, City Public Service Board of San Antonio, Central Power and Light Company, and City of Austin, Texas. Currently, the staff has no reason to believe that any of these entities is owned, controlled, or dominated by any alien, foreign corporation, or foreign government, or that the proposed new operating company will otherwise be owned, controlled, or dominated by any alien, foreign corporation, or foreign government.

6.0 FINANCIAL QUALIFICATIONS ANALYSIS

Financial responsibilities under the licenses are not being transferred to the new operating company. Thus, a financial qualifications analysis with respect to the proposed transferee is not required. Moreover, based on the information provided in the licensee's application, the staff finds that there will be no near-term substantive change in the owners' financial ability to contribute appropriately to the operations and decommissioning of the STP

units as a result of the proposed formation of the new operating company. Each of the owners would remain an "electric utility" as defined in 10 CFR 50.2, engaged in the generation, transmission, and distribution of electric energy for wholesale and retail sale, subject to the rate regulation of the Texas Public Utility Commission. Thus, pursuant to 10 CFR 50.33(f), the owners are exempt from further financial qualifications review as electric utilities.

Because the application requests only that the new operating company be added to the STP licenses, and the current owners will remain on the STP licenses and will continue to be financially responsible for the safe operation and decommissioning of the STP units, the staff believes that with respect to the issue of financial qualifications, the licensee's application should be approved.

7.0 ENVIRONMENTAL CONSIDERATION

Pursuant to 10 CFR 51.21 and 51.35, an environmental assessment and finding of no significant impact was published in the Federal Register on November 18, 1996 (61 FR 58710).

8.0 CONCLUSION

Based on the above determinations, the staff concludes that the proposed new operating company is qualified to hold the licenses to the extent and for the purposes proposed by the application for approval of the transfer of operating authority, and that the transfer is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

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