

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-35321, License No. 11-27657-01, EA-03-128]

In the Matter of All Tech Corporation Pocatello, Idaho; Order Imposing Civil Monetary Penalty

All Tech Corporation (Licensee) is the holder of Byproduct Material License No. 11-27657-01 issued by the Nuclear Regulatory Commission (NRC or Commission) on March 6, 2000. The license authorizes the Licensee to use and possess portable gauging devices in accordance with the conditions specified therein.

An investigation of the Licensee's activities was initiated on March 18, 2003. The investigation concluded that the Licensee had not conducted its activities in full compliance with NRC requirements. The results of the investigation were discussed with the Licensee during a predecisional enforcement conference on September 15, 2003. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated April 27, 2004. The Notice stated the nature of the violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated June 2, 2004. In its response, the Licensee denied the violation in whole and requested remission or mitigation of the civil penalty.

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered that:*

The Licensee pay a civil penalty in the amount of \$6,000 within 30 days of the date of this Order, in accordance with NUREG/BR-0254. In addition, at the time of making the payment, the licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

The Licensee may request a hearing within 30 days of the date of this Order.

Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and
- (b) Whether, on the basis of such violation, this Order should be sustained.

Dated this 10th day of December 2004.

For the Nuclear Regulatory Commission.

Frank Congel,

Director, Office of Enforcement.

[FR Doc. 04-27731 Filed 12-17-04; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-498 AND 50-499]

STP Nuclear Operating Company, et al., South Texas Project, Units 1 and 2; Notice of Consideration of Approval of Application Transfer of Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an order under Section 50.80 of Title 10 of the Code of Federal Regulations (10 CFR), approving the direct transfer of Facility Operating License Nos. NPF-76 and NPF-80 for South Texas Project (STP), Units 1 and 2, respectively, to the extent held by AEP Texas Central Company (TCC). The Commission is further considering amending the licenses for administrative purposes to reflect the proposed transfer, including removing references to TCC in the licenses.

The application requests the consent of the NRC to the proposed direct transfer of the STP, Units 1 and 2, licenses to the extent held by TCC by virtue of the direct transfer of TCC's 25.2 percent undivided ownership interest in STP, Units 1 and 2 (TCC's ownership interest in STP) to STP co-owners Texas Genco, LP (Texas Genco) and/or City Public Service Board of San Antonio (CPS). According to the application, it is currently anticipated that the following proportionate shares of TCC's ownership interest in STP will be transferred to Texas Genco and CPS: a 13.2 percent undivided ownership interest to Texas Genco and a 12 percent undivided ownership interest to CPS. If, however, the transfer to either Texas Genco or CPS fails to take place, the party whose transfer has not failed to take place will be obligated, subject to the terms and conditions of a September 3, 2004, Purchase and Sale Agreement between TCC, CPS, and Texas Genco (Purchase and Sale Agreement), to purchase all of TCC's ownership interest in STP.

(In a separate but parallel action, an October 12, 2004, application requests the consent of the NRC to the proposed indirect transfer of control of the STP, Units 1 and 2, licenses to the extent held by Texas Genco by virtue of the transfer of ownership of approximately 81 percent of the stock of Texas Genco's indirect parent company, Texas Genco Holdings Inc. (TGN), from CenterPoint Energy, Inc., (CenterPoint Energy) to GC Power Acquisitions, LLC (GC Power). Texas Genco is an indirect subsidiary of TGN and TGN is an indirect subsidiary

of CenterPoint Energy. The transaction would result in the indirect transfer of control of Texas Genco's 30.8 percent undivided ownership interest in STP, Units 1 and 2, or greater interest if the direct transfer described herein, to Texas Genco, has been consummated. In addition to its 30.8 percent undivided ownership interest in STP, Units 1 and 2, Texas Genco holds a corresponding 30.8 percent interest in STP Nuclear Operating Company (STPNOC), a not-for-profit Texas corporation, which is the licensed operator of STP, Units 1 and 2. The application further requests, as necessary, approval of the indirect transfer of control of this 30.8 percent interest in STPNOC, to the extent such indirect transfer would result in an indirect transfer of the licenses as held by STPNOC, thereby requiring NRC approval.)

Pursuant to 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the direct transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action, involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene with regard to the license transfer application, are discussed below.

Within 20 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and

petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice set forth in subpart M, "Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed within 20 days after the date of publication of this notice, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall: (1) Provide a brief explanation of the bases for the contention; (2) Demonstrate that the issue raised in the contention is within the scope of the proceeding; (3) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to

support the action that is involved in the proceeding; and (5) Provide a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner/requestor intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HEARINGDOCKET@NRC.GOV; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile

transmission to 301-415-3725 or by email to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to Mr. John E. Matthews, Morgan, Lewis, & Bockius, LLP, 1111 Pennsylvania Avenue, NW, Washington, DC 20004, attorney for the licensee.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held, and designating the presiding officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this action, see the application dated October 12, 2004, of which, a nonproprietary version is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams/html>. Persons who don't have access to ADAMS or who encounter problems accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland this 14th day of December 2004.

For the Nuclear Regulatory Commission.

David H. Jaffe,

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

[FR Doc. 04-27732 Filed 12-17-04; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Renewal

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of renewal of the Charter of the Advisory Committee on Reactor Safeguards (ACRS).

SUMMARY: The Advisory Committee on Reactor Safeguards was established by Section 29 of the Atomic Energy Act (AEA) in 1954. Its purpose is to provide advice to the Commission with regard to the hazards of proposed or existing reactor facilities, to review each

application for a construction permit or operating license for certain facilities specified in the AEA, and such other duties as the Commission may request. The AEA as amended by PL 100-456 also specifies that the Defense Nuclear Safety Board may obtain the advice and recommendations of the ACRS.

Membership on the Committee includes individuals experienced in reactor operations, management; probabilistic risk assessment; analysis of reactor accident phenomena; design of nuclear power plant structures, systems and components; materials science; and mechanical, civil, and electrical engineering.

The Nuclear Regulatory Commission has determined that renewal of the charter for the ACRS until December 14, 2006 is in the public interest in connection with the statutory responsibilities assigned to the ACRS. This action is being taken in accordance with the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT:

Andrew L. Bates, Office of the Secretary, NRC, Washington, DC 20555; telephone: (301) 415-1963.

Dated: December 14, 2004.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 04-27733 Filed 12-17-04; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

DATES: Weeks of December 20, 27, 2004, January 3, 10, 17, 24, 2005.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of December 20, 2004

There are no meetings scheduled for the week of December 20, 2004.

Week of December 27, 2004—Tentative

There are no meetings scheduled for the week of December 27, 2004.

Week of January 3, 2005—Tentative

Wednesday, January 5, 2005

2 p.m. Affirmation Session (Public Meeting) (Tentative).

- a. Private Fuel Storage (Independent Spent Fuel Storage Installation); Docket No. 72-22-ISFSI (Tentative).

Week of January 10, 2005—Tentative

Tuesday, January 11, 2005

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1 & 9).

Week of January 17, 2005—Tentative

There are no meetings scheduled for the week of January 17, 2005.

Week of January 24, 2005—Tentative

Monday, January 24, 2005

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1).

1:30 p.m. Briefing on Human Capital Initiatives (Closed—Ex. 2).

Tuesday, January 25, 2005

9:30 a.m. Discussion of Security Issues (Closed—Ex. 1).

* The Schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: Dave Gamberoni, (301) 415-1651.

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SUPPLEMENTARY INFORMATION: By a vote of 3-0 on December 9 and 10, the Commission determined pursuant to U.S.C. 552(b)(e) and § 9.107(a) of the Commission's rules that "Affirmation of (a) HYDRO RESOURCES, INC. Petition for Review of LBP-04-23 (Final Environmental Impact Statement Supplementation), (b) STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES (Confirmatory Order Modifying License); Intervenor's Motion for Reconsideration of CLI-04-26, and (c) Final Amendments to 10 CFR Part 50, Appendix E, Relating to (1) Nuclear Regulatory Commission Review of Changes to Emergency Action Levels, Paragraph IV.B and (2) Exercise Requirements for Co-Located Licensees, Paragraph IV.F.2" be held December 14, and on less than one week's notice to the public.

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The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/what-we-do/policy-making/schedule.html>.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at (301) 415-7080, TDD: (301) 415-2100, or by e-mail at