

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of NRG Energy, Inc. and NRG Energy Center San Francisco LLC (U909H) for Authority for Newly Formed Subsidiaries of NRG Energy, Inc. to Acquire Indirect Control of NRG Energy Center San Francisco LLC.

Application 13-03-004
(Filed March 1, 2013)

DECISION GRANTING APPLICATION**1. Summary**

In this decision we grant the joint application of NRG Energy, Inc. (NRG) and NRG Energy Center San Francisco LLC (U909H) (NRG-SF) to change the corporate ownership structure of NRG-SF. NRG-SF is a public utility heat corporation providing steam heating and cooling services within the City and County of San Francisco pursuant to authorization and subject to regulation by the Commission. The change in structure will affect the upstream ownership (but not the ultimate upstream control) of NRG-SF. The change in corporate structure will have no effects on the business or operations of NRG-SF and no environmental impacts.

Specifically, NRG plans to form a new corporate entity that will be inserted into the existing chain of ownership of NRG-SF as a wholly-owned direct subsidiary of NRG that will, in turn, own a second new corporate entity, which will become the direct owner of NRG Thermal, LLC (NRG Thermal), which is presently a wholly-owned direct subsidiary of NRG. NRG Thermal is the sole

direct owner of NRG-SF. To accomplish this reorganization, NRG will form two new subsidiaries NRG YieldCo LLC and NRG YieldCo Operating LLC (collectively, NRG YieldCo) which will acquire indirect control of NRG-SF. The planned transaction will not result in any change of direct control over NRG-SF, which will remain a direct subsidiary of NRG Thermal.

2. Background

NRG seeks to make this proposed change in its corporate structure to augment operational flexibility within NRG's current corporate structure. Any change in control of NRG-SF that occurs will be an incidental result of, but will not be the reason for, the underlying transaction and presents no potential for harm either to NRG-SF or to any of its customers. Neither the immediate ownership and control of NRG-SF by NRG Thermal nor the ultimate upstream control of NRG-SF by NRG will be changed by this transaction. The transaction will also have no impact on the Commission's authority over NRG-SF, which will remain a Commission-regulated public utility heat corporation. There will be no change in the management or the day-to-day operations of NRG-SF.

3. Discussion

Public Utilities Code Section 854 requires Commission authorization before a company may "merge, acquire, or control...any public utility organized and doing business in this state...." The purpose of this section is to enable the Commission, before any transfer of public utility property is consummated, to review the situation and to take such action, as a condition of the transfer, as the public interest may require. *San Jose Water Co.* (1916) 10 CRC 56.

As noted above, the proposed change in the corporate structure of the NRG entities will have no effect on the operations of NRG-SF, the services it

provides to its customer or the rates it charges. Consequently, the proposed changes are not adverse to the public interest.

The City and County of San Francisco filed the only response to the proposed transaction. In its response, the City stated that it does not object to the Application given that Public Utilities Code Section 854(a) would require any change of control in the future to be approved by the Commission. The City also stated that it does not seek evidentiary hearings or any change to the schedule proposed by NRG.

The California Environmental Quality Act (CEQA) requires the Commission as the designated lead agency to assess the potential impact of a project to ensure that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest degree possible. Applicants will not be constructing any facilities beyond those already in use. Therefore, it can be seen with certainty that there is no possibility that granting this application will have an adverse effect on the environment. Applicant must file for additional authority and submit to any required CEQA review before it can construct additional facilities.

In Resolution ALJ-176-3311, dated March 21, 2013, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were not necessary. Based on the record, we conclude that it is not necessary to alter the preliminary determinations in Resolution ALJ-176-3311.

The application is granted, subject to the terms and conditions set forth below.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the

otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. Notice of this application appeared in the Commission's Daily Calendar of March 15, 2013.

2. Applicants seek approval pursuant to Public Utilities Code Section 854 of an internal reorganization that will result in a change of control of NRG Energy Center San Francisco LLC.

3. NRG Energy Center San Francisco LLC is a public utility heat corporation subject to the jurisdiction of this Commission.

4. There will be no change in name, current services or rates provided by NRG Energy Center San Francisco LLC as a result of the change of control.

5. There were no protests to the application

Conclusions of Law

1. The proposed change of control is not adverse to the public interest.

2. This proceeding is designated a ratesetting proceeding; no protests having been received, no hearing is necessary.

3. Since Applicants will be constructing no facilities, it can be seen with certainty that there will be no significant effect on the environment.

4. The application should be approved.

O R D E R

IT IS ORDERED that:

1. NRG Energy Center San Francisco LLC and its direct and indirect parent corporations are authorized pursuant to Section 854 of the Public Utilities Code to enter into a reorganization, as more fully described in the application and its

exhibits that will result in a change of control of NRG Energy Center San Francisco LLC.

2. Applicants shall notify the Director of the Commission's Energy Division in writing of the transfer of control, as authorized herein, within 10 days of the date of consummation of such transfer. A true copy of the instruments of transfer shall be attached to the notification.

3. NRG Energy Center San Francisco LLC shall make all books and records available for review and inspection upon Commission staff request.

4. The authority granted herein shall expire if not exercised within one year of the date of this order.

5. Application13-03-004 is closed.

This order is effective today.

Dated _____, at San Francisco, California.