



Department of Justice

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DEPARTMENT OF JUSTICE WILL NOT CHALLENGE STARS ALLIANCE LLC'S JOINT PROCUREMENT PROPOSAL

Nuclear Power Plant Operators' Proposal Unlikely to Restrict Competition in Markets for Electricity

WASHINGTON – The Department of Justice today announced that it will not challenge a proposal by STARS Alliance LLC, a group of seven nuclear power plant operators, to procure jointly certain goods and services. The STARS members each operate single nuclear electric generation plants and seek to obtain efficiencies similar to those of a nuclear fleet operator through the proposed joint procurement.

The department said that, based on representations made by the applicants, the proposed joint procurement was not likely to restrict competition in either the upstream markets for the particular goods and services or the downstream markets for electricity.

The department's position was stated in a second business review letter to counsel for the STARS Alliance, from Renata B. Hesse, Acting Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "The proposed conduct may allow the joint venture to increase efficiencies that result in lower costs for electricity, benefitting consumers," said Hesse.

On July 3, 2012, the department issued its first business review letter to counsel for STARS stating that the department would not challenge proposed conduct relating to the sharing of resources and coordination of best practices and other operational activities through STARS.

In issuing today's letter, the department noted that none of the proposed joint procurement involves the sale or purchase of the electric power or the purchase of nuclear fuel, that STARS will adopt measures to prevent anticompetitive exchanges of information and that membership and participation in all of the activities of STARS is voluntary.

The department determined that the expanded joint venture meets the requirements of the antitrust safety zone set forth in Section 4.2 of the Department of Justice's and Federal Trade Commission's *Collaboration Among Competitors Guidelines*. The guidelines provide an "antitrust safety zone" under which, absent extraordinary circumstances, the agencies will not challenge a joint venture when the market shares of the joint venture and its members are not

more than 20 percent of each relevant market. STARS represented that its members collectively account for less than 20 percent of each relevant market in which STARS proposed joint procurement.

With respect to electricity, the STARS members, for the most part, are in separate geographic markets and do not compete against each other for the sale of electricity. In the two instances where members both have reactors in the same electricity transmission organization, the members' nuclear units are not likely to have an impact on price.

The STARS Alliance members are: Union Electric Company, with its Callaway plant in Missouri; Arizona Public Service Company, with its Palo Verde plant in Arizona; Luminant Generation Company LLC, with its Comanche Peak plant in Texas; Pacific Gas and Electric Company, with its Diablo Canyon plant in California; Southern California Edison Company, with its San Onofre plant in California; STP Nuclear Operating Company, with its STP plant in Texas; and Wolf Creek Nuclear Operating Company, with its Wolf Creek plant in Kansas.

Under the department's business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the division currently intends to challenge the action under the antitrust laws based on the information provided. The department reserves its right to challenge the proposed action under the antitrust laws if it produces anticompetitive effects.

A file containing the business review request and the department's response may be examined in the Antitrust Division's Antitrust Documents Group, U.S. Department of Justice, 450 Fifth Street, N.W., Suite 1010, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established under the business review procedure.

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