

action will be publicly available in ADAMS and on the NRC "Significant Enforcement Actions" Web site, and the NRC will issue a press release announcing this action, as well as the actions NASA has taken and committed to take to address the violation. NASA disagreed that the two violations described in Item 1 warrant a Severity Level III characterization. The NRC and NASA agreed to disagree regarding the Severity Level III characterization.

7. NASA agreed to issuance of a Confirmatory Order confirming this agreement, and also agreed to waive any request for a hearing regarding this Confirmatory Order.

In light of the actions NASA has taken and agreed to take to correct the violation and prevent recurrence, as set forth in Section III above, the NRC has concluded that its concerns regarding the violation can be resolved through the NRC's confirmation of the commitments as outlined in this Confirmatory Order.

I find that NASA's commitments as set forth in Section III above are acceptable. However, in view of the foregoing, I have determined that these commitments shall be confirmed by this Confirmatory Order. Based on the above and NASA's consent, this Confirmatory Order is immediately effective upon issuance.

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 20 and 30, *it is hereby ordered*, that by December 31, 2007:

1. NASA will increase the frequency of its internal audits of its radiation safety program from annually to quarterly, for, at a minimum, through the end of 2007;

2. NASA will retain an organization independent of NASA Goddard to conduct an annual independent review of the radiation safety program, at a minimum, for 2006 and 2007;

3. NASA will provide a presentation at the NASA Occupational Health Conference in 2006, and include, at a minimum, in that presentation, a description of the violations that are described in Section 3 of this agreement, as well as the circumstances that led to the violations, lessons learned, and the corrective action taken and planned to prevent recurrence; and

4. Within 30 days of completion of all of these actions as set forth in Sections V.1-3, NASA will send a letter to the NRC informing the NRC that the actions are complete.

The Director, Office of Enforcement, may relax or rescind, in writing, any of

the above conditions upon a showing by NASA of good cause.

Any person adversely affected by this Confirmatory Order, other than NASA, may request a hearing within 20 days of its issuance. 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 must include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemaking and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also 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, to the Director of the Division of Regulatory Improvement Programs at the same address, and to MSHMC. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and 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](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel by means of facsimile transmission to 301-415-3725 or e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order shall be sustained. An answer or a request for a hearing shall not stay the effectiveness date of this order.

Dated this 10th day of February 2006.

For the Nuclear Regulatory Commission.

**Michael Johnson,**

*Director, Office of Enforcement.*

[FR Doc. 06-1558 Filed 2-21-06; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Dockets No. 50-220 and 50-410]

### **Nine Mile Point Nuclear Station, LLC; Nine Mile Point Nuclear Station, Unit Nos. 1 and 2; Notice of Consideration of Approval of Application Regarding Proposed Merger and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of the Renewed Facility Operating Licenses, which are numbered DPR-63 and NPF-69, for the Nine Mile Point Nuclear Station, Unit Nos. 1 and 2 (NMP), currently held by Nine Mile Point Nuclear Station, LLC (NMP LLC), as owner and licensed operator. Long Island Power Authority holds a 18-percent ownership interest in NMP Unit No. 2, but is not involved in this proposed action.

According to an application for approval filed by Constellation Generation Group, LLC (CGG), on behalf of NMP LLC, in connection with the merger of CGG's parent company, Constellation Energy Group, Inc. (CEG, Inc.) and FPL Group, Inc. (FPL Group), FPL Group will become a wholly owned subsidiary of CEG, Inc. At the closing of the merger, the former shareholders of FPL Group will own approximately 60% of the outstanding stock of CEG, Inc., and the pre-merger shareholders of CEG, Inc., will own the remaining approximately 40%. In addition, the CEG, Inc., board of directors will be composed of fifteen members, nine of whom will be named by FPL Group, and six of whom will be named by the current CEG, Inc. NMP LLC will continue to own and operate the facility and hold the licenses to the same extent now held.

No physical changes to the facility or operational changes are being proposed in the application.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve the application for the indirect transfer of a license, if the Commission determines that the proposed merger will not affect the qualifications of the licensee 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.

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

Within 20 days from the date of publication of this notice, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i) through (viii).

Requests for a hearing and petitions for leave to intervene should be served upon Mr. Jay M. Gutierrez at Morgan, Lewis & Bockius, LLP, 1111 Pennsylvania Avenue, Washington, DC 20004, telephone: 202-739-5466, fax: 202-739-3001, and e-mail [jgutierrez@morganlewis.com](mailto:jgutierrez@morganlewis.com); the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 (e-mail address for filings regarding license transfer cases only: [OGCLT@NRC.gov](mailto:OGCLT@NRC.gov)); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.302 and 2.305.

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.

As an alternative to requests for hearing and petitions to intervene, within 30 days from the date of publication of this notice, persons may submit written comments regarding the

license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated January 23, 2006, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agency wide 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/adams.html>. Persons who do not have access to ADAMS or who encounter problems in 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](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland this 13th day of February 2006.

For the Nuclear Regulatory Commission.

**Patrick D. Milano,**

*Senior Project Manager, Plant Licensing Branch I-1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[Docket No. 50-244]**

### **R.E. Ginna Nuclear Plant, LLC; R.E. Ginna Nuclear Power Plant; Notice of Consideration of Approval of Application Regarding Proposed Merger and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of the Renewed Facility Operating License, which is numbered DPR-18, for the R.E. Ginna Nuclear Power Plant (Ginna), currently held by R.E. Ginna Nuclear Power Plant, LLC (Ginna LLC), as owner and licensed operator.

According to an application for approval filed by Constellation

Generation Group, LLC (CGG), on behalf of Ginna LLC, in connection with the merger of CGG's parent company, Constellation Energy Group, Inc. (CEG, Inc.), and FPL Group, Inc. (FPL Group), FPL Group will become a wholly owned subsidiary of CEG, Inc. At the closing of the merger, the former shareholders of FPL Group will own approximately 60% of the outstanding stock of CEG, Inc., and the pre-merger shareholders of CEG, Inc., will own the remaining approximately 40%. In addition, the CEG, Inc., board of directors will be composed of fifteen members, nine of whom will be named by FPL Group, and six of whom will be named by the current CEG, Inc. Ginna LLC will continue to own and operate the facility and hold the license.

No physical changes to the facility or operational changes are being proposed in the application.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve the application for the indirect transfer of a license, if the Commission determines that the proposed merger will not affect the qualifications of the licensee 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.

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

Within 20 days from the date of publication of this notice, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is