

March 27, 2001

Mr. Robert E. Denton  
President and Chief Executive Officer  
Constellation Nuclear, LLC  
P.O. Box 1475  
Baltimore, MD 21203-1475

SUBJECT: NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER OF FACILITY  
OPERATING LICENSES AND CONFORMING AMENDMENTS, AND  
OPPORTUNITY FOR A HEARING - NINE MILE POINT NUCLEAR STATION,  
UNIT NOS. 1 AND 2 (TAC NOS. MB0878 AND MB0879)

Dear Mr. Denton:

Enclosed is a copy of a "Notice of Consideration of Approval of Direct and Indirect Transfer of Facility Operating Licenses and Conforming Amendments and Opportunity for a Hearing" related to the application dated February 1, 2001, filed by Constellation Nuclear, LLC, Niagara Mohawk Power Corporation, New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, and Central Hudson Gas & Electric Corporation. The application was supplemented by letters dated March 1 and March 16, 2001, from Constellation Nuclear, LLC. The application (pursuant to 10 CFR 50.80) seeks approval of the direct transfer of Facility Operating Licenses Nos. DPR-63 and NPF-69, for the Nine Mile Point Nuclear Station, Unit Nos. 1 and 2, to Nine Mile Point Nuclear Station, LLC, which is to be created as an indirect subsidiary of Constellation Nuclear, LLC. The application also seeks approval of indirect transfers pertaining to the associated corporate structure changes proposed for Constellation Energy Group, Inc., the current parent of Constellation Nuclear, LLC. In addition, the application seeks approval of conforming amendments, pursuant to 10 CFR 50.90, to reflect the direct transfer.

An identical letter (with the same notice) is being sent to the other 4 signatories of the February 1, 2001, application. This notice is being forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

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

Docket Nos. 50-220 and 50-410

Enclosure: Federal Register Notice

cc w/encl: See next page

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Project Directorate 1  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

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**Identical letters sent to:**

**John Mueller**  
**Jeffrey Smith**  
**Paul Wilkens**  
**Arthur Upright**

**DISTRIBUTION:**

PUBLIC	PDI-1 R/F	ASC	PTam	MEvans, RI
SLittle	OGC	ACRS	WCook, RI	EAdensam (EGA1)

FILENAME: **ML010380181**

\*See previous concurrence

OFFICE	PM:PDI-1	LA:PDI-1	OGC*	ASC:PDI-1
NAME	PTam	SLittle	SHom	PTam
DATE	3/23/01	3/27/01	3/26/01	3/27/01

**OFFICIAL RECORD COPY**

Mr. John H. Mueller  
Chief Nuclear Officer  
Niagara Mohawk Power Corporation  
Nine Mile Point Nuclear Station  
Operations Building, Second Floor  
Lycoming, NY 13093

March 27, 2001

SUBJECT: NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER OF FACILITY  
OPERATING LICENSES AND CONFORMING AMENDMENTS, AND  
OPPORTUNITY FOR A HEARING - NINE MILE POINT NUCLEAR STATION,  
UNIT NOS. 1 AND 2 (TAC NOS. MB0878 AND MB0879)

Dear Mr. Mueller:

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Project Directorate 1  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

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March 27, 2001

Mr. Jeffrey K. Smith  
Senior Vice President  
New York State Electric & Gas Corporation  
P.O. Box 5224  
Binghamton, NY 13902-5224

SUBJECT: NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER OF FACILITY  
OPERATING LICENSES AND CONFORMING AMENDMENTS, AND  
OPPORTUNITY FOR A HEARING - NINE MILE POINT NUCLEAR STATION,  
UNIT NOS. 1 AND 2 (TAC NOS. MB0878 AND MB0879)

Dear Mr. Smith:

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Project Directorate 1  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-220 and 50-410

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March 27, 2001

Mr. Paul Wilkens  
Senior Vice President - Generation  
Rochester Gas and Electric Corporation  
89 East Avenue  
Rochester, NY 14649

SUBJECT: NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER OF FACILITY  
OPERATING LICENSES AND CONFORMING AMENDMENTS, AND  
OPPORTUNITY FOR A HEARING - NINE MILE POINT NUCLEAR STATION,  
UNIT NOS. 1 AND 2 (TAC NOS. MB0878 AND MB0879)

Dear Mr. Wilkens:

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

Docket Nos. 50-220 and 50-410

Enclosure: Federal Register Notice

cc w/encl: See next page

Mr. Arthur R. Upright  
Senior Vice President  
Central Hudson Gas & Electric Corporation  
284 South Avenue  
Poughkeepsie, NY 12601

March 27, 2001

SUBJECT: NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER OF FACILITY  
OPERATING LICENSES AND CONFORMING AMENDMENTS, AND  
OPPORTUNITY FOR A HEARING - NINE MILE POINT NUCLEAR STATION,  
UNIT NOS. 1 AND 2 (TAC NOS. MB0878 AND MB0879)

Dear Mr. Upright:

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Project Directorate 1  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-220 and 50-410

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Nine Mile Point Nuclear Station  
Unit Nos. 1 and 2  
Regional Administrator, Region I  
U.S. Nuclear Regulatory Commission  
475 Allendale Road  
King of Prussia, PA 19406

Resident Inspector  
U.S. Nuclear Regulatory Commission  
P.O. Box 126  
Lycoming, NY 13093

Mr. Jim Rettberg  
New York State Electric & Gas  
Corporation  
Corporate Drive  
Kirkwood Industrial Park  
P.O. Box 5224  
Binghamton, NY 13902-5224

Supervisor  
Town of Scriba  
Route 8, Box 382  
Oswego, NY 13126

Mr. John V. Vinquist, MATS Inc.  
P.O. Box 63  
Lycoming, NY 13093

Jay E. Silberg, Esquire  
Shaw Pittman  
2300 N Street, N.W.  
Washington D.C. 20037

Daniel F. Stenger, Esquire  
Foley & Lardner  
888 16<sup>th</sup> St., NW  
Washington, D.C. 20006

Mary A. Murphy, Esquire  
LeBoeuf, Lamb, Greene and MacRae, LLP  
1875 Connecticut Ave.  
Suite 1200  
Washington, D.C. 20009

Charles Donaldson, Esquire  
Assistant Attorney General  
New York Department of Law  
120 Broadway  
New York, NY 10271

Mr. Paul D. Eddy  
Electric Division  
NYS Department of Public Service  
Agency Building 3  
Empire State Plaza  
Albany, NY 12223

Mr. Timothy S. Carey  
Chair and Executive Director  
State Consumer Protection Board  
5 Empire State Plaza, Suite 2101  
Albany, NY 12223

Mark J. Wetterhahn, Esquire  
Winston & Strawn  
1400 L Street, NW  
Washington, DC 20005-3502

Gary D. Wilson, Esquire  
Niagara Mohawk Power Corporation  
300 Erie Boulevard West  
Syracuse, NY 13202

Mr. F. William Valentino, President  
New York State Energy, Research,  
and Development Authority  
Corporate Plaza West  
286 Washington Avenue Extension  
Albany, NY 12203-6399

Robert J. Glasser and Bo Hong, Esquires  
Gould & Wilkie, LLP  
One Chase Manhattan Plaza  
58<sup>th</sup> Floor  
New York, NY 10005

UNITED STATES NUCLEAR REGULATORY COMMISSION

NIAGARA MOHAWK POWER CORPORATION

NINE MILE POINT NUCLEAR STATION, UNIT NOS. 1 AND 2

DOCKET NOS. 50-220 AND 50-410

NOTICE OF CONSIDERATION OF APPROVAL OF DIRECT AND INDIRECT TRANSFER  
OF FACILITY OPERATING LICENSES AND CONFORMING AMENDMENTS,  
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 direct transfer of Facility Operating Licenses Nos. DPR-63 and NPF-69 for the Nine Mile Point Nuclear Station, Unit Nos. 1 and 2 (NMP-1, NMP-2), to the extent the NMP-1 license is held by Niagara Mohawk Power Corporation (NMPC) as exclusive owner and operator of NMP-1, and to the extent the NMP-2 license is held by NMPC as part-owner and exclusive operator of NMP-2, and New York State Electric & Gas Corporation (NYSEG), Rochester Gas and Electric Corporation (RG&E), and Central Hudson Gas & Electric Corporation (CHGEC) as part-owners of NMP-2. The remaining part-owner of NMP-2, Long Island Lighting Company (doing business as Long Island Power Authority), which has an undivided 18% ownership interest in NMP-2, is not involved in the proposed transaction described herein, and accordingly will retain its ownership interest in and remain a licensee for NMP-2. The direct transfer of the NMP-1 and NMP-2 licenses would be to a new limited liability company, Nine Mile Point Nuclear Station, LLC (NMP LLC). NMP LLC will be an indirect subsidiary of Constellation Nuclear, LLC, which is presently a subsidiary of Constellation Energy Group, Inc. (CEG). The Commission is also considering approving associated indirect



license transfers to the extent such would be effected by a realignment of the CEG organization involving the creation of a new holding company, currently referred to as New Controlled, or by Virgo Holdings, Inc. (Virgo), an indirect wholly owned subsidiary of The Goldman Sachs Group, Inc., acquiring up to a 17.5% voting interest in New Controlled. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed direct transfer. The facility is located in Oswego County, in the State of New York.

According to a February 1, 2001, application (consisting of a proprietary and a non-proprietary version) filed by Constellation Nuclear, LLC, on behalf of NMP LLC, NMPC, NYSEG, RG&E, and CHGEC, which was supplemented by letters from Constellation Nuclear, LLC, dated March 1 and March 16, 2001, NMP LLC would assume title to NMP-1 following approval of the proposed license transfer, and would assume the 82-percent ownership interest in NMP-2 currently held by NMPC, NYSEG, RG&E and CHGEC. In addition, NMP LLC would become responsible for the operation of both NMP-1 and NMP-2. The application states that NMP LLC will also assume the decommissioning responsibility of the current owners of NMP-1 and NMP-2 who are transferring their interests in the facilities to NMP LLC. NMP LLC will provide decommissioning funding assurance through the use of decommissioning trusts coupled with parent company guarantees.

No physical changes to the facility or operational changes are being proposed in the application. The application states that upon closing, substantially all NMPC employees will become employees of NMP LLC.

The application also states that Virgo may in the future exercise rights to acquire additional voting interests beyond 17.5% in New Controlled. The Commission is not considering at this time approving any indirect license transfers that may be associated with Virgo acquiring such additional voting interests.

The proposed amendments would replace references to NMPC, NYSEG, RG&E, and CHGEC in the licenses with references to NMP LLC, as appropriate, and make other administrative changes to reflect the proposed transfer.

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 an application for the direct transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and will approve an application for an indirect transfer if the Commission determines the underlying transaction effectuating the transfer will not affect the qualifications of the holder of the license, and in both cases if the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

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, and written comments with regard to the license transfer application, are discussed below.

By April 23, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, 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 M, "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), 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 2.1308(b)(1)-(2).

Requests for a hearing and petitions for leave to intervene should be served upon Jay E. Silberg, counsel for Constellation Nuclear, LLC, at Shaw Pittman, 2300 N Street, N.W., Washington, DC 20037 (tel. 202-663-8063; fax 202-663-8007; e-mail: jay.silberg@shawpittman.com); Mark J. Wetterhahn, counsel for NMPC, at Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005 (tel. 202-371-5703; fax 202-371-5950; e-mail: mwetterh@winston.com); Daniel F. Stenger, counsel for RG&E, at Foley and Lardner, 888 16th St NW, #700, Washington, DC 20006 (tel. 202-835-8185; fax: 202-835-8136; e-mail dstenger@hopsut.com); Mary A. Murphy, counsel for NYSEG, at LeBoeuf, Lamb, Greene & MacRae, L.L.P., 1875 Connecticut Ave, N.W., Suite 1200, Washington, D.C. 20009 (tel. 202-986-8021; fax 202-986-8102; e-mail: mmurphy@llgm.com); Robert J. Glasser and Bo Hong, counsel for CHGEC, at Gould & Wilkie, LLP, One Chase Manhattan Plaza, 58<sup>th</sup> Floor, New York, NY 10005 (tel. 212-344-5680; fax 212-809-6890; e-mail: BobGlasser@gouldwilkie.com and BHong@gouldwilkie.com); the General Counsel, U.S. Nuclear Regulatory Commission,

Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: 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 2.1313.

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, by May 02, 2001, 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 February 1, 2001, and supplements dated March 1 and March 16, 2001, available for public inspection at

the Commission's Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 27th day of March 2001.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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