

RAS 11414

DOCKETED  
USNRC

UNITED STATES OF AMERICA  
BEFORE THE  
NUCLEAR REGULATORY COMMISSION

March 24, 2006 (3:06pm)

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

In the Matters of	)	
	)	Docket Nos. 50-220-LT-2
Constellation Generation Group, LLC	)	50-410-LT-2
(Nine Mile Point Nuclear Station, Units 1 and 2)	)	50-244-LT
(R.E. Ginna Nuclear Plant)	)	50-317-LT
(Calvert Cliffs Nuclear Power Plant,	)	50-318-LT
Units 1 and 2)	)	72-8-LT

COMMENTS OF THE MARYLAND OFFICE OF  
THE PEOPLE'S COUNSEL

Pursuant to the Code of Federal Regulations, Title 10, Chapter 1, Part 2 Rules of Practice for Domestic Licensing Procedures of the Nuclear Regulatory Commission (Commission), 10 CFR 2.1305, and the Federal Register Notice of February 22, 2006 [Volume 71, Number 35, pages 9168-9169 and 9175-9177], the Maryland Office of the People's Counsel (MPC) hereby files comments in the above-captioned proceeding.

I. Procedural History

On January 23, 2006, Constellation Generation Group, LLC (Constellation Generation) filed a request for a threshold determination or application for approval of indirect license transfers of its nuclear power plants, in connection with the proposed merger between Constellation's parent corporation, Constellation Energy Group, Inc. (Constellation Energy) and FPL Group, Inc. (FPL). Constellation Generation states in its application that Constellation Energy will remain the parent company of the licensee subsidiaries of Constellation Generation, and that there will not be any change in the direct or indirect ownership of these licensees; however, the proposed post-merger corporate structure of Constellation Energy and FPL remains uncertain and may be

subject to change in the future. At a minimum, Constellation Energy's pre-merger shareholders will only have a 40% ownership of the new entity, while the pre-merger shareholders of FPL will own 60% of the outstanding stock of Constellation Energy. FPL's current Chief Executive Officer will become the CEO of the new company.

The MPC is an independent state agency that was established to represent the interests of residential consumers in utility matters. Pursuant to Maryland Public Utility Companies Code Annotated, Section 2-205(b)(2003), the People's Counsel "may appear before any federal or state agency as necessary to protect the interests of residential. . . users of [gas, electricity or other regulated services]." In April, 1999, the Maryland General Assembly passed the Electric Customer Choice and Competition Act of 1999. Maryland Public Utility Companies Code Annotated, section 7-501, et. seq. (2003). This Act institutes competition for retail electric service beginning July 1, 2000. A substantial portion of Maryland retail customers are in the Baltimore Gas and Electric (BGE) service territory. BGE is a regulated subsidiary of Constellation Energy. Since the announcement of the proposed merger between Constellation Energy and FPL to create the nation's largest competitive energy supplier and its second-largest electric utility portfolio, MPC has filed a request with the Maryland Public Service Commission (MPSC) to investigate the impact of the proposed merger on BGE's residential consumers of electricity related to financial, service, operational and other interests. Specifically, among other things, the MPC questions the anticipated merger-related savings that Constellation Energy has projected. That docket is pending at the MPSC and a procedural schedule has been established.

The MPC filed a petition to intervene in this docket on March 9, 2006. By order of this Commission, served on March 17, 2006, that petition was denied for failure to proffer a proposed contention. The MPC is appealing that order.

## II. Facts

Shortly following the implementation of full customer choice for all customer classes pursuant to the deregulation of electric generation in 1999, MPC, along with numerous other parties, entered into a “restructuring settlement” with BGE involving regulatory and competitive issues affecting the electric utility industry in Maryland.<sup>1</sup> Such issues concerned the quantification and recovery of costs that were allegedly stranded in connection with the transition period that will end this June; price protection measures to be instituted during the transition period; and unbundled rates for retail electric services. Unbundling of electric service rates into their component elements was a fundamental part of electric restructuring.

The restructuring settlement also addressed capping customer responsibility for Calvert Cliffs nuclear decommissioning costs. BGE agreed under the settlement, to refund to customers any balance in the nuclear decommissioning trust fund at the time of decommissioning that is in excess of \$520 Million Dollars (in 1993 dollars). More specifically, customer funding at certain levels for generation-related regulatory assets and nuclear decommissioning were included in BGE’s unbundled delivery service rates. Those delivery service rates included, among other things, charges for universal service, generation-related regulatory assets, and nuclear decommissioning. The settling parties in the restructuring settlement agreed that customer funding of nuclear decommissioning would be treated as follows: (a) customer contributions for nuclear decommissioning

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<sup>1</sup> Baltimore Gas and Electric Company, Case No. 8794, 90 Md. PSC 197 (1999).

costs shall be made at a fixed annual rate of \$18,661,980 until June 30, 2006; (b) the total contribution to the cost of nuclear decommissioning to be paid by customers is frozen at \$520 million in 1993 dollars as established by prior Maryland Public Service Commission order; (c) calculations of customer contributions for nuclear decommissioning costs for years beginning after June 30, 2006 shall use the adjustment factor for inflation set forth in 10 C.F.R. 50.75(c)(2), as it may be amended, the actual balance of the Nuclear Decommissioning Trust Fund and a reasonable forecast of expected future after-tax earnings of the Nuclear Decommissioning Trust Fund and the inflation factor; (d) BGE shall continue to report the performance of the fund to the MPSC on an annual basis and shall provide a copy of the report to the settling parties; and (e) after June 30, 2006 any party, at any time, may petition the MPSC to initiate proceedings to address the components necessary to determine funding level requirements, with the exception of the total amount to be funded in 1993 dollars, as specified in item (b) and the adjustment factor for inflation referenced in item (c). The settlement agreement also specified that BGE shall refund to customers any balance in the Nuclear Decommissioning Trust Fund at the time of decommissioning in excess of the \$520 million in 1993 dollars, escalated per the NRC formula, at the time of decommissioning. BGE is responsible for any actual decommissioning costs in excess of \$520 million in 1993 dollars, escalated per the NRC formula, and shall retain any cost savings if actual decommissioning costs are less than the \$520 million in 1993 dollars, escalated per the NRC formula. If the NRC's formula for the adjustment factor for inflation is amended, the revised formula will be applied to the \$520 million in 1993 dollars. According to Constellation Energy, this Commission has previously reviewed

the details of this contractual arrangement in its June 30, 2000 Safety Evaluation and concluded that, given the inter-company agreements that obligate the payments, Calvert Cliffs is providing decommissioning funding assurance in the form of external sinking funds tied to a non-bypassable charge pursuant to 10 C.F.R. 50.75(e)(1)(ii)(B).<sup>2</sup>

According to Constellation Energy's 2005 report on Calvert Cliffs Decommissioning Reserve to the Maryland Public Service Commission, BGE recorded \$18,662,000 to the decommissioning reserve representing customers' payments, \$7,878,000 representing interest on internally invested funds accrued at the 9.63% rate of return earned in 2004 by BGE's utility operations, \$11,344,000 representing actual earnings of the external qualified trust, and \$122,000 representing actual earnings of the external nonqualified trust. In total, as of December 31, 2005, the decommissioning reserve contained a balance of \$479,603,000.<sup>3</sup> Additionally, the qualified and the nonqualified trust funds had net unrealized gains totaling \$9,035,000 as of December 31, 2005, resulting in total funds available for decommissioning of \$488,638,000. According to Constellation Energy's 2006 Decommissioning Funding Status Report filed with this Commission, the minimum decommissioning fund estimate as of December 31, 2005, for both units at Calvert Cliffs nuclear power plant was \$643,976,000.<sup>4</sup> The total amount accumulated as of December 31, 2005 in the external decommissioning trust was \$353,791,000 with \$8,308,000 yet to be collected from BGE ratepayers.

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<sup>2</sup> See Attachment (1) of Constellation Energy's 2006 Decommissioning Funding Status Report-Year End 2005, page 2, footnote 4.

<sup>3</sup> See attached 2005 Report on Calvert Cliffs Decommissioning Reserve filed by Constellation Energy with the Maryland Public Service Commission.

<sup>4</sup> 2006 Decommissioning Funding Status Report -Year End 2005, filed by Constellation Energy with this Commission.

MPC questions the apparent shortfall of approximately \$291 Million in this trust. Moreover, there is no indication that Constellation Energy or BGE have made any payments into the decommissioning trust fund that meets the minimum requirement under this Commission's rules pursuant to 10 C.F.R. 50.75(b) and (c). BGE is contractually obligated to deposit the funds into the decommissioning trust.

### III. Comment

In the nuclear power industry's first two decades, accident insurance requirements were seriously inadequate and decommissioning costs were overlooked entirely, according to a report issued by Synapse Energy Economics, Inc.<sup>5</sup> According to the authors of this report, it wasn't until the early 1980's that Congress and the U.S. Nuclear Regulatory Commission made any serious efforts to address these shortcomings. Also absent are a set of comprehensive policies to guide those seeking to transfer nuclear plant ownerships. MPC maintains that the protection of the public should not be diminished by these transfers or mega-mergers. Without such affirmative guidance, there will be an increased likelihood that some of the costs of decommissioning nuclear power plants will fall on the public.

MPC's concern here primarily relates to the fiscal and operational qualifications of any newly formed entity that may become the holder and owner of these licenses post merger. In Constellation Generation's application, it indicates that the post-merger corporate board will be composed of fifteen members, nine of whom will be current FPL Group directors, and six of whom will be current Constellation Energy directors.

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<sup>5</sup> *Financial Insecurity: The Increasing Use of Limited Liability Companies and Multi-Tiered Holding Companies to Own Nuclear Power Plants*, by David Schlissel, Paul Peterson and Bruce Biewald, August 7, 2002. See the company's website at [www.synapse-energy.com](http://www.synapse-energy.com).

Constellation Energy's current chairman, president and CEO will continue as chairman of Constellation Energy and head the company's competitive energy business, while FPL's current chairman, president and CEO will become CEO of Constellation Energy.<sup>6</sup> There is no certainty as to how the new board will determine management, operation and control of the companies' regulated and unregulated subsidiaries, or how those new sub-entities will handle the nuclear power plant operation as it relates to the internal and external decommissioning trust funds. Maryland ratepayers' interests are directly tied to the stewardship of these trust funds. The large shortfall in the nuclear decommissioning funds compared to the minimum requirements of this Commission creates a liability for captive Maryland customers.

Therefore, MPC requests that this Commission deny any transfers of license control, direct or indirect, pending an investigation of the various trust fund funding levels within Constellation Energy's control. Alternatively, if this Commission finds that there is a transfer of control of the licenses for these nuclear power plant facilities as a result of the merger, MPC respectfully requests that this Commission condition any approval of the license transfers on Constellation Generation's commitment to preserve the status quo of its operations of these three nuclear plants and to order Constellation Energy to immediately file an acceptable plan with this Commission to address the shortfall in the funding of the internal and external decommissioning trust funds through each operating company or entity that might take control after the merger is consummated. MPC would also ask that a full accounting of the decommissioning trust funds be performed now to account for any discrepancies caused by Constellation Energy

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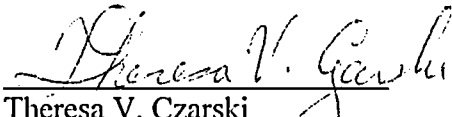
<sup>6</sup> Page 2 of Constellation Generation's application.

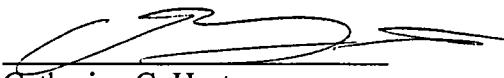
or its subsidiaries, and that this also be made a condition of this Commission's approval of any license transfers.

Maryland People's Counsel appreciates the opportunity to comment in these proceedings.

Respectfully submitted,

Patricia A. Smith  
People's Counsel

  
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Deputy People's Counsel

  
Catherine C. Hester  
Assistant People's Counsel

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**Constellation Energy**

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February 3, 2006

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PUBLIC SERVICE COMM  
OF MARYLAND

Mr. O. Ray Bourland  
Executive Secretary  
Public Service Commission of Maryland  
William Donald Schaefer Tower  
6 St. Paul Street, 16<sup>th</sup> Floor  
Baltimore, Maryland 21202

**Re: 2005 Report on Calvert Cliffs Decommissioning Reserve**

Dear Mr. Bourland:

In Order No. 66415 from Case No. 7588, the Public Service Commission directed Baltimore Gas and Electric Company (BGE) to file annually a financial report which provides a summary of customers' payments into the Calvert Cliffs decommissioning reserve during the year, the amount of earnings credited to the reserve during the year, and the year-end balance in the decommissioning reserve.

With respect to the triennial reporting requirements, the Commission issued a Restructuring Order (Case No. 8794/8804 Order No. 75757) on November 10, 1999 which caps BGE customer responsibility for nuclear decommissioning costs for Calvert Cliffs at \$520 million in 1993 dollars adjusted in accordance with paragraph 22 of the Stipulation and Settlement Agreement. Also, BGE transferred, at book value, its nuclear generating assets and its nuclear decommissioning trust fund to Calvert Cliffs Nuclear Power Plant, Inc. (CCNPPI) on July 1, 2000 as a result of the deregulation of the Company's electric generation.

As indicated in my letter dated February 4, 2005, CCNPPI had accrued a reserve balance of \$441,597,000 as of December 31, 2004. Effective January 1, 2003, for financial reporting purposes CCNPPI began to record the decommissioning liability in accordance with the provisions of FASB Statement No. 143 – Accounting for Asset Retirement Obligations. While our accounting records and balances are now maintained in accordance with the provisions of FASB Statement No. 143, we have continued to maintain the decommissioning reserve activity in a memorandum manner for purposes of reporting to the Public Service Commission. The activity in the memorandum records during 2005 was as follows. The Company recorded \$18,662,000 to the decommissioning reserve representing customers' payments, \$7,878,000 representing interest on internally invested funds accrued at the 9.63% rate of return earned in 2004 by BGE's utility operations, \$11,344,000 representing actual earnings of the external qualified trust, and \$122,000 representing actual earnings of the external nonqualified trust. Thus, as of December 31, 2005, the decommissioning reserve contains a balance of \$479,603,000. Additionally, the qualified and the nonqualified trust funds had net unrealized gains totaling \$9,035,000 at December 31, 2005, resulting in funds available for decommissioning of \$488,638,000. Schedule 1 attached presents the decommissioning reserve activity for 2005.

Pursuant to Nuclear Regulatory Commission (NRC) regulations that all of the funds to decommission Calvert Cliffs be accumulated in an external trust by the end of the plant's service life, CCNPPI made payments totaling \$17,213,000 into the external qualified trust, \$419,000 into the external nonqualified trust, and \$1,030,000 to the internal reserve in 2005. The sum of these payments is \$18,662,000, which is in accordance with our agreement with the Public Service Commission to deposit this sum each year through June 2006.

Consistent with the Commission's Order in Case No. 7588, effective January 1, 2005, we began to compute interest at a 9.63% rate on the internally funded portion of the decommissioning reserve. For 2005, application of the 9.63% rate of return to the gross internal reserve balance results in earnings of \$10,490,000. However, associated with the internal reserve is a deferred tax asset to account for the fact that the Company does not realize a current tax savings from contributions to the internal reserve. (Unlike contributions to the qualified external trust, contributions to the internal reserve are not tax deductible in the year of funding.) As indicated in my letter dated February 5, 2003, it is our belief that imputed earnings on the internal reserve are more appropriately calculated based on the net of the internal reserve balance and the deferred tax asset balance. When the Commission established the annual cost of service for decommissioning of \$20.6 million in 1995, a cash return of \$1,503,000 was recognized on the deferred tax asset, so any imputed earnings on the deferred tax asset must be reduced by that \$1,503,000. Since the imputed earnings on the deferred asset were \$4,115,000 in 2005 using the 9.63% rate of return, the earnings attributed to the deferred tax asset for 2005 are \$2,612,000 (\$4,115,000 less \$1,503,000). Therefore, the net earnings attributed to the internal reserve for 2005 are \$7,878,000 (\$10,490,000 less \$2,612,000). The externally funded portion of the decommissioning reserve continues to be credited with the actual after-tax earnings and unrealized gains and losses on the assets maintained in the external decommissioning trust funds.

In accordance with paragraph 22 of the Stipulation and Settlement Agreement, a copy of this report is being provided to the settling parties.

Very truly yours,



Vincent P. O'Grady  
Executive Director- General Accounting Services  
Constellation Generation Group

cc: Settling parties in 8794/8804

Calvert Cliffs Nuclear Power Plant, Inc.  
Nuclear Decommissioning Reserve  
For the Twelve Months Ended December 31, 2005

	Nuclear Decommissioning Reserve			
	(Thousands of Dollars)			
	Qualified	Nonqualified	Internal	Total
	\$	\$	\$	\$
Reserve Balance at 12/31/04	326,305	5,896	109,396	441,597
Customers' Payments	17,213	419	1,030	18,662
Earnings on Gross Reserve	11,344	122	10,490	21,956
Earnings on Deferred Tax Asset			<u>(2,612)</u>	<u>(2,612)</u>
Net Earnings	<u>11,344</u>	<u>122</u>	<u>7,878</u>	<u>19,344</u>
Reserve Balance at 12/31/05	354,862	6,437	118,304	479,603
Net Unrealized Gains for the year ended 12/31/05	<u>8,671</u>	<u>364</u>		<u>9,035</u>
Funds Available for Decommissioning at 12/31/0	<u>363,533</u>	<u>6,801</u>	<u>118,304</u>	<u>488,638</u>

J. M. Heffley  
Chief Nuclear Officer

Constellation Generation Group  
1997 Annapolis Exchange Parkway  
Suite 310  
Annapolis, MD 21401  
410-897-5020



**Constellation Energy**  
Generation Group

February 8, 2006

U. S. Nuclear Regulatory Commission  
Washington, DC 20555

**ATTENTION:** Document Control Desk

**SUBJECT:** **Calvert Cliffs Nuclear Power Plant**  
Unit Nos. 1 & 2; Docket Nos. 50-317 & 50-318  
**Nine Mile Point Nuclear Station**  
Unit Nos. 1 & 2; Docket Nos. 50-220 & 50-410  
**R.E. Ginna Nuclear Power Plant**  
Docket No. 50-244

**Annual Report: Status of Decommissioning Funding per 10 CFR 50.75(f)(1)**

Pursuant to the requirements of 10 CFR 50.75(f)(1), this letter forwards the 2006 report on the status of decommissioning funding for Calvert Cliffs Nuclear Power Plant, the R.E. Ginna Nuclear Power Plant, and the Nine Mile Point Nuclear Station, which are owned by the Constellation Generation Group, LLC. The requirements for submitting such an annual report by March 31, 2006 are:

- 1) The current license expiration date for Nine Mile Point Nuclear Station, Unit 1, is within the next five years of the date of this letter; and,
- 2) The five nuclear units operated by the three licensees that are subsidiaries of Constellation Generation Group, LLC, are involved in a pending merger.

The information required by 10 CFR 50.75(f)(1) is provided in Attachment (1). Please note the required information applicable to Nine Mile Point Station Unit 2 includes summary statements provided by the remaining 18% co-owner, Long Island Power Authority. Constellation Generation Group, LLC, has not independently verified information provided by this co-owner.

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Document Control Desk  
February 8, 2006  
Page 2

Should you have questions regarding the information in this submittal, please contact Mr. M. D. Flaherty at (410) 897-5087 or [Mark.Flaherty@constellation.com](mailto:Mark.Flaherty@constellation.com).

Very truly yours,

  
John M. Heffley  
Chief Nuclear Officer

JHM/EMT/jmp

Attachment: (1) 2006 Decommissioning Funding Status Report Year End 2005

cc:	P. D. Milano, NRC	Resident Inspector, NRC (NMPNS)
	T.G. Colburn, NRC	R. I. McLean, Maryland DNR
	S. J. Collins, NRC	J. P. Spath, NYSERDA
	Resident Inspector, NRC (Ginna)	P. Eddy, NYS Dept. of Public Services
	Resident Inspector, NRC (Calvert Cliffs)	

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**ATTACHMENT (1)**

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**2006 DECOMMISSIONING FUNDING STATUS REPORT**

**YEAR END 2005**

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**Calvert Cliffs Nuclear Power Plant  
(Docket Nos. 50-317 & 50-318)**

**Nine Mile Point Nuclear Station  
(Docket Nos. 50-220 & 50-410)**

**R. E. Ginna Nuclear Power Plant  
(Docket No. 50-244)**

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**Constellation Generation Group, LLC  
February 8, 2006**

**ATTACHMENT (1)**  
**2006 DECOMMISSIONING FUNDING STATUS REPORT**  
**YEAR END 2005**

**Calvert Cliffs Nuclear Power Plant**  
**Unit Nos. 1 & 2**  
**Docket Nos. 50-317 & 50-318**

**Table 1 – Calvert Cliffs Nuclear Power Plant**

	Information Required by 10 CFR 50.75(f)(1)	Unit 1 (\$000's)	Unit 2 (\$000's)	Total (\$000's)
1	The minimum decommissioning fund estimate <sup>2</sup> as of December 31, 2005, pursuant to 10 CFR 50.75(b) and (c)	\$321,988 <sup>1</sup>	\$321,988 <sup>1</sup>	\$643,976 <sup>1</sup>
2	The amount accumulated as of December 31, 2005 in the external decommissioning trust pursuant to 10 CFR 50.75(b) and (c)	\$155,117	\$198,674	\$353,791
3	Schedule of the annual amounts remaining to be collected <sup>3</sup>	\$3,443	\$4,865	\$8,308
4	Assumptions used regarding escalation in decommissioning cost, rates of earnings on decommissioning funds, and rates of other factors used in funding projections			
	Annual decommissioning cost escalation	6%		
	Annual after-tax rate of earnings on decommissioning funds	7%		
	Frequency of contribution to the decommissioning trust	Quarterly		
5	Any contracts upon which Constellation is relying pursuant to 10 CFR 50.75(e)(1)(ii)(B)	Yes <sup>4</sup>		
6	Any modifications to Constellation's current method of providing financial assurance since the last submitted report	None		
7	Any material changes to trust agreements	Yes <sup>5</sup>		

**ATTACHMENT (1)**  
**2006 DECOMMISSIONING FUNDING STATUS REPORT**  
**YEAR END 2005**

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**Table 1 Notes – Calvert Cliffs Nuclear Power Plant**

- <sup>1</sup> These values represent decommissioning costs anticipated to be incurred in removing the Calvert Cliffs units safely from service and reducing residual radioactivity to levels that permit release of the property for unrestricted use and termination of the license. The cost of dismantling non-radioactive systems and structures is not included in this estimate, nor is the cost of managing and storing spent fuel on the site until transfer to the U. S. Department of Energy.
- <sup>2</sup> Values based on application of the generic minimum funding calculation specified in 10 CFR 50.75(c)(1), as adjusted in accordance with paragraph 50.75(c)(2) and Revision 11 of NUREG-307.
- <sup>3</sup> Actual amounts being deposited into the trust were approved by the Maryland Public Service Commission in 1999 and the Internal Revenue Service in 2002. These collections will continue until June 2006 per a Settlement Agreement that included the Maryland Public Service Commission and Baltimore Gas and Electric Company (BGE). The amounts shown are the expected contributions through June 30, 2006.
- <sup>4</sup> Calvert Cliffs regulated affiliate, BGE, collects decommissioning costs from its electric customers for Calvert Cliffs through its delivery service charges in accordance with a restructuring order from the Maryland Public Service Commission. BGE transfers these funds to Calvert Cliffs pursuant to a Decommissioning Funds Collection Agent Agreement. Under the terms of this Agreement, Calvert Cliffs is obligated to deposit the funds into the decommissioning trusts. The NRC has previously reviewed the details of this contractual arrangement in its June 30, 2000 Safety Evaluation and concluded that, given the intercompany agreements that obligate the payments, Calvert Cliffs is providing decommissioning funding assurance in the form of external sinking funds tied to a non-bypassable charge pursuant to 10 CFR 50.75(e)(1)(ii)(B).
- <sup>5</sup> Since originally filed with the Commission in 1990, the trust agreement has been amended and restated. Those changes, as reflected in the trust agreement, are not material. Mellon Bank, N.A, was appointed Successor Trustee under the Trust Agreement, effective October 2005. The Trust Agreement complies with the requirements set forth in Section III, item (3), of NRC Order 7590-01-P; "Order Approving Transfer of License and Conforming Amendment" dated May 28, 2004. A copy of the restated trust agreement is available upon request.



**ATTACHMENT (1)**  
**2006 DECOMMISSIONING FUNDING STATUS REPORT**  
**YEAR END 2005**

**Nine Mile Point Nuclear Station**  
**Unit Nos. 1 & 2**  
**Docket Nos. 50-220 & 50-410**

**Table 2 – Nine Mile Point Nuclear Station <sup>1</sup>**  
**(Constellation Energy Group Ownership Interest)**

	Information Required by 10 CFR 50.75(f)(1)	Unit 1 (\$000's)	Unit 2 (\$000's)	Total (\$000's)
1	The minimum decommissioning fund estimate <sup>3</sup> as of December 31, 2005, pursuant to 10 CFR 50.75(b) and (c)	\$431,492 <sup>2</sup>	\$395,907 <sup>2</sup>	\$827,399 <sup>2</sup>
2	The amount accumulated as of December 31, 2005 in the external decommissioning trust pursuant to 10 CFR 50.75(b) and (c)	\$318,106	\$201,217	\$519,323
3	Schedule of the annual amounts remaining to be collected	None	None	None
4	Assumptions used regarding escalation in decommissioning cost, rates of earnings on decommissioning funds, and rates of other factors used in funding projections			
	Annual decommissioning cost escalation	6%		
	Annual after-tax rate of earnings on decommissioning funds	7%	7%	7%
	Frequency of contribution to the decommissioning trust <sup>4</sup>	N/A		
5	Any contracts upon which Constellation is relying pursuant to 10 CFR 50.75(e)(1)(iii)(B)	None		
6	Any modifications to Constellation's current method of providing financial assurance since the last submitted report	None <sup>4</sup>		
7	Any material changes to trust agreements	None <sup>5</sup>		

**ATTACHMENT (1)**  
**2006 DECOMMISSIONING FUNDING STATUS REPORT**  
**YEAR END 2005**

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**Table 2 Notes - Nine Mile Point Nuclear Station**  
**(Constellation Energy Group Ownership Interest)**

- <sup>1</sup> On November 7, 2001, Constellation completed the acquisition of 100% of Nine Mile Point Unit 1 (NMP-1) and 82% of Nine Mile Point Unit 2 (NMP-2). The NMP-1 amounts provided in this table represent the 100% Constellation share of decommissioning responsibilities. The NMP-2 amounts provided in this table represent the 82% Constellation share of decommissioning responsibilities. Table 3 contains information regarding the remaining 18% share assumed by the Long Island Power Authority.
- <sup>2</sup> These values represent the decommissioning costs, relative to the Constellation Energy Group interests, as anticipated to be incurred in removing the Nine Mile Point units safely from service and reducing residual radioactivity to levels that permit release of the property for unrestricted use and termination of the license. The cost of dismantling non-radioactive systems and structures is not included in this estimate, nor is the cost of managing and storing spent fuel on the site until transfer to the U.S. Department of Energy.
- <sup>3</sup> Values based on application of the generic minimum funding calculation specified in 10 CFR 50.75(c)(1), as adjusted in accordance with paragraph 50.75(c)(2) and Revision 11 of NUREG-1307.
- <sup>4</sup> At completion of the Nine Mile Point acquisition by Constellation, the selling parties transferred all of their decommissioning trust assets into the respective master decommissioning trusts for each of NMP-1 and NMP-2. A parental guarantee for additional funds was provided pursuant to 10 CFR 50.75(e)(1)(iii)(B), which, when combined with the transferred decommissioning trust funds for NMP-1 and NMP-2, met the total amounts required for NMP-1 and NMP-2, respectively, pursuant to 10 CFR 50.75(b) and (c). Additional contributions to the decommissioning trust fund are not required at this time.
- <sup>5</sup> As described above, the decommissioning trust assets were transferred into the "Nine Mile Point Nuclear Station, LLC Master Decommissioning Trust Agreement for Nine Mile Point Nuclear Station Unit One and Unit Two" ("Trust Agreement") and a parental guarantee was provided. The trustee of the Trust Agreement is Mellon Bank, N.A. The Trust Agreement also contains each of the decommissioning trust conditions required by the June 22, 2001, NRC Order (as amended) to provide reasonable assurance of decommissioning funding for unregulated non-electric utilities, including investment standards and limitations, disbursement limitations, and NRC notice requirements.

**ATTACHMENT (1)**  
**2006 DECOMMISSIONING FUNDING STATUS REPORT**  
**YEAR END 2005**

**Nine Mile Point Nuclear Station**  
**Unit Nos. 1 & 2**  
**Docket Nos. 50-220 & 50-410**

**Table 3 – Nine Mile Point Nuclear Station <sup>1</sup>**  
**(Long Island Power Authority 18% NMP-2 Ownership Interest)**

*Note: All information in this table was provided by the NMP-2 minority owner, Long Island Power Authority. Constellation Energy has not independently verified or assessed the information provided by this co-owner.*

	Information Required by 10 CFR 50.75(f)(1)	Unit 1 (\$000's)	Unit 2 (\$000's)	Total (\$000's)
1	The minimum decommissioning fund estimate <sup>3</sup> as of December 31, 2005, pursuant to 10 CFR 50.75 (b) and (c)	N/A	\$86,906 <sup>2</sup>	\$86,906 <sup>2</sup>
2	The amount accumulated as of December 31, 2005 in the external decommissioning trust pursuant to 10 CFR 50.75 (b) and (c)	N/A	\$48,723	\$48,723
3	Schedule of the annual amounts remaining to be collected	N/A	\$2,202 (2006-2026)	\$2,202 (2006-2026)
4	Assumptions used regarding escalation in decommissioning cost, rates of earnings on decommissioning funds, and rates of other factors used in funding projections			
	Annual decommissioning cost escalation	N/A	3.0%	3.0%
	Annual after-tax rate of earnings on decommissioning funds	N/A	6.0%	6.0%
	Frequency of contribution to the decommissioning trust	Annually		
5	Any contracts upon which Long Island Power Authority is relying pursuant to 10 CFR 50.75 (e)(1)(iii)(B)	None		
6	Any modifications to the Long Island Power Authority's current method of providing financial assurance since the last submitted report	None		
7	Any material changes to trust agreements	None		

**ATTACHMENT (1)**  
**2006 DECOMMISSIONING FUNDING STATUS REPORT**  
**YEAR END 2005**

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**Table 3 Notes – Nine Mile Point Nuclear Station**  
**(Long Island Power Authority 18% NMP-2 Ownership Interest)**

- <sup>1</sup> On November 7, 2001, Constellation Energy Group completed the acquisition of 100% of Nine Mile Point, Unit 1 (NMP-1) and 82% of Nine Mile Point Unit 2 (NMP-2). The NMP-2 amounts provided in this table represent the remaining 18% Long Island Power Authority share of decommissioning responsibilities. Constellation has not independently verified this information as provided by the co-owner.
- <sup>2</sup> These values represent the decommissioning costs, relative to the Long Island Power Authority interests, as anticipated to be incurred in removing NMP-2 safely from service and reducing residual radioactivity to levels that permit release of the property for unrestricted use and termination of the license. The cost of dismantling non-radioactive systems and structures is not included in this estimate, nor is the cost of managing and storing spent fuel on the site until transfer to the U.S. Department of Energy. Constellation has not independently verified this information as provided by the co-owner.
- <sup>3</sup> Values based on application of the generic minimum funding calculation specified in 10 CFR 50.75(c)(1), as adjusted in accordance with paragraph 50.75(c)(2) and Revision 11 of NUREG-1307.

**ATTACHMENT (1)**  
**2006 DECOMMISSIONING FUNDING STATUS REPORT**  
**YEAR END 2005**

**R. E. Ginna Nuclear Power Plant**  
**Unit No. 1**  
**Docket No. 50-244**

**Table 4 – R. E. Ginna Nuclear Power Plant <sup>1</sup>**

	Information Required by 10 CFR 50.75(f)(1)	Total (\$000's)
1	The minimum decommissioning fund estimate <sup>3</sup> as of December 31, 2005, pursuant to 10 CFR 50.75 (b) and (c)	\$298,005 <sup>2</sup>
2	The amount accumulated as of December 31, 2005 in the external decommissioning trust pursuant to 10 CFR 50.75 (b) and (c)	\$222,542
3	Schedule of the annual amounts remaining to be collected	None <sup>4</sup>
4	Assumptions used regarding escalation in decommissioning cost, rates of earnings on decommissioning funds, and rates of other factors used in funding projections	
	Annual decommissioning cost escalation	6%
	Annual after-tax rate of earnings on decommissioning funds	7%
	Frequency of contribution to the decommissioning trust	N/A
5	Any contracts upon which Constellation is relying pursuant to 10 CFR 50.75 (e)(1)(ii)(B)	None
6	Any modifications to Constellation's current method of providing financial assurance since the last submitted report	None <sup>4</sup>
7	Any material changes to trust agreements	None <sup>5</sup>

ATTACHMENT (1)  
2006 DECOMMISSIONING FUNDING STATUS REPORT  
YEAR END 2005

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Table 4 Notes – R. E. Ginna Nuclear Power Plant

- <sup>1</sup> On June 10, 2004, Constellation completed acquisition of 100% of the R. E. Ginna plant and associated assets. The amounts provided in this table represent that 100% Constellation share of decommissioning responsibilities.
- <sup>2</sup> Values based on application of the generic minimum funding calculation specified in 10 CFR 50.75(c)(1), as adjusted in accordance with paragraph 50.75(c)(2) and Revision 11 of NUREG-1307.
- <sup>3</sup> These values represent decommissioning costs anticipated to be incurred in removing the Ginna unit safely from service and reducing residual radioactivity to levels that permit release of the property for unrestricted use and termination of the license. The cost of dismantling non-radioactive systems and structures is not included in this estimate, nor is the cost of managing and storing spent fuel on the site until transfer to the U. S. Department of Energy.
- <sup>4</sup> At completion of the Ginna acquisition by Constellation, the selling party transferred the decommissioning trust assets into a master decommissioning trust. A parental guarantee for additional funds was not required because the assets exceed the amounts required pursuant to 10 CFR 50.75(b) and (c). Additional contributions to the decommissioning trust fund are not required at this time.
- <sup>5</sup> The trustee of the Trust Agreement is Mellon Bank, N.A. The Trust Agreement complies with the requirements set forth in Section III, item (3), of NRC Order 7590-01-P; "Order Approving Transfer of License and Conforming Amendment" dated May 28, 2004.

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March 24, 2006

Annette L. Vietti-Cook  
Secretary of the Commission  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Sixteenth Floor, One White Flint North  
11555 Rockville Pike  
Rockville, Maryland 20852  
Attention: Rulemakings and Adjudications Staff

Re: Constellation Generation Group, LLC- Calvert Cliffs Nuclear Power  
Plant, Nine Mile Point Nuclear Station, R.E. Ginna Nuclear Plant

Dear Ms. Vietta-Cook:

Enclosed for filing please find an original and one copy of Comments of the Maryland Office of the People's Counsel, along with attachments. Please kindly date-stamp the copy of the Comments and return to the courier for delivery back to our office.

Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Catherine C. Hester". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Catherine C. Hester  
Assistant People's Counsel

CCH: eom  
Enclosures