

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
NINE MILE POINT NUCLEAR)	Docket Nos. 50-220 and 50-410
STATION, LLC)	
)	
)	
(Nine Mile Point Nuclear Station,)	License Nos. DPR-63 and NPF-69
Units Nos. 1 and 2))	

ORDER APPROVING APPLICATION REGARDING PROPOSED CORPORATE MERGER

I.

Nine Mile Point Nuclear Station, LLC (NMP LLC or the licensee) holds Facility Operating License No. DPR-63 and co-holds Facility Operating License No. NPF-69, which authorize the possession, use, and operation of the Nine Mile Point Nuclear Station (the facility or NMP). NMP LLC is licensed by the U.S. Nuclear Regulatory Commission (NRC or Commission) to operate NMP. The facility is located at the licensee's site in Oswego County, New York.

II.

By application dated January 23, 2006, as supplemented by letters dated April 25 and May 25, 2006, (collectively referred to herein as the application), Constellation Generation Group, LLC (CGG LLC), acting on behalf of NMP LLC, requested that the NRC, pursuant to 10 CFR 50.80, consent to the proposed indirect transfer of control of the licenses to the extent currently held by NMP LLC. Long Island Power Authority holds a 18-percent ownership interest in NMP Unit 2, but is not involved in this action.

According to the application filed by CGG LLC, NMP Unit 1 is wholly owned by NMP LLC, and NMP Unit 2 is 82% owned by NMP LLC. NMP LLC is wholly owned by Constellation Nuclear Power Plants, Inc., which is wholly-owned by CGG LLC.

As stated in the application, in connection with the merger of CGG LLC'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 its current interests in and operate the facility and hold the licenses.

Approval of the indirect transfer of the facility operating licenses was requested by CGG LLC pursuant to 10 CFR 50.80. Notice of the request for approval and an opportunity for a hearing was published in the *Federal Register* on February 22, 2006 (71 FR 9175). Comments and a petition to intervene were received from the Maryland Office of the People's Counsel. However, the petition to intervene was dismissed by the Secretary of the Commission by order dated March 17, 2006.

Under 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. Upon review of the information in the application by CGG LLC and other information before the Commission, the NRC staff concludes that the proposed merger and resulting indirect transfer of control of the licenses will not affect the qualifications of NMP LLC as holder of the NMP licenses, and that the indirect transfer of control of the licenses as held by

NMP LLC, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The findings set forth above are supported by a safety evaluation dated August 3, 2006.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended (the Act), 42 USC §§ 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the application regarding the proposed merger and indirect license transfers is approved, subject to the following condition:

Should the proposed merger not be completed within one year from the date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may in writing be extended.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated January 23, 2006, as supplemented by letter dated April 25 and May 25, 2006, and the safety evaluation dated August 3, 2006, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and accessible electronically from the Agencywide Documents Access and Management System (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.

Dated at Rockville, Maryland this 3rd day of August 2006.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Catherine Haney, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation