



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 25, 2014

Mary G. Korsnick
Acting Chief Executive Officer and Chief Nuclear Officer
Constellation Energy Nuclear Group, LLC
100 Constellation Way, Suite 200C
Baltimore, MD 21202

Bryan P. Wright
Senior Vice President and Chief Financial Officer
Constellation Energy Nuclear Group, LLC
100 Constellation Way, Suite 200C
Baltimore, MD 21202

SUBJECT: R.E. GINNA NUCLEAR POWER PLANT – ORDER APPROVING DIRECT
TRANSFER OF RENEWED OPERATING LICENSE AND CONFORMING
LICENSE AMENDMENT (TAC NO. MF2588)

Dear Ms. Korsnick and Mr. Wright:

The U.S. Nuclear Regulatory Commission (NRC) staff has completed its review of the application dated August 6, 2013, as supplemented by letters and emails dated August 14, 2013, September 23 and 26, 2013, December 17, 2013, January 9, 2014, and February 5, 10, 14, and 21, 2014, requesting approval of the direct transfer of operating authority for the R.E. Ginna Nuclear Power Plant (Ginna) Renewed Facility Operating License No. DPR-18 from R.E. Ginna Nuclear Power Plant, LLC to Exelon Generation Company, LLC. The application also requested approval of the conforming amendment to the license. The Ginna Independent Spent Fuel Storage Installation is operated in accordance with a general license.

Enclosure 1 is the Order that approves the proposed direct transfer pursuant to Title 10 of the Code of Federal Regulations Sections 50.80, "Transfer of licenses" and 50.90, "Application for amendment of license, construction permit, or early site permit," and subject to the conditions described therein. The Order also approves the conforming license amendment in Enclosure 2, which will be issued and made effective at the time the transfer is consummated.

NOTICE: Enclosure 4 contains Proprietary Information. Upon separation from Enclosure 4, this letter and Enclosures 1, 2, and 3 are DECONTROLLED.

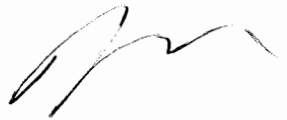
M. Korsnick and B. Wright

- 2 -

Enclosures 3 and 4 contain the non-proprietary and proprietary versions, respectively, of the NRC staff's safety evaluation (SE) related to the preceding actions. The non-proprietary version of the SE will be placed in the NRC public document room and added to the Agencywide Documents Access and Management System's Publicly Available Records System Library.

The Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,



Nadiyah S. Morgan, Project Manager
Plant Licensing Branch I-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-244

Enclosures:

1. Order
2. Conforming Amendment to DPR-18
3. SE (Non-proprietary)
4. SE (Proprietary)

cc w/encls:

Mr. Joseph E. Pacher
Vice President
R.E. Ginna Nuclear Power Plant
R.E. Ginna Nuclear Power Plant, LLC
1503 Lake Road
Ontario, NY 14519

Additional Distribution via ListServ

ENCLOSURE 1

ORDER APPROVING DIRECT TRANSFER OF
R.E. GINNA NUCLEAR POWER PLANT
LICENSE NO. DPR-18
AND CONFORMING AMENDMENT

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
R.E. GINNA NUCLEAR POWER PLANT, LLC)	Docket No. 50-244
)	License No. DPR-18
EXELON GENERATION COMPANY, LLC)	
)	
(R.E. Ginna Nuclear Power Plant))	

ORDER APPROVING DIRECT TRANSFER OF LICENSE
AND CONFORMING AMENDMENT

I.

R.E. Ginna Nuclear Power Plant, LLC (Ginna, LLC or the licensee) is the holder of Renewed Facility Operating License No. DPR-18, which authorizes the possession, use, and operation of R.E. Ginna Nuclear Power Plant (Ginna or the facility), including an Independent Spent Fuel Storage Installation (ISFSI) with a general license. The facility is located in Wayne County, New York.

II.

By application dated August 6, 2013, as supplemented by letters and emails dated August 14, 2013, September 23 and 26, 2013, December 17, 2013, January 9, 2014, and February 5, 10, 14, and 21, 2014 (together, the application), Constellation Energy Nuclear Group, LLC (CENG) requested on behalf of itself, its subsidiary, Ginna, LLC, and Exelon Generation Company, LLC (Exelon Generation) (together, the applicants), that the U.S. Nuclear Regulatory Commission (NRC, the Commission) approve the proposed direct transfer of operating authority of the facility to Exelon Generation. The applicants also requested approval of a conforming license amendment that would reflect the proposed transfer of operating authority to Exelon Generation. Prior to the transfer, Exelon Generation was an intermediate

50.01 percent parent company of CENG, which is the parent company owner of Ginna, LLC. After completion of the proposed transfer, Exelon Generation would remain an intermediate parent company and also become the co-licensee of Ginna, LLC and the operator of Ginna. Exelon Generation will assume direct licensed responsibility for the operation of the facility and its ISFSI, but the ownership will not be affected. There will be no physical changes to the facility and no adverse changes in day-to-day operations.

Approval of the direct transfer of the renewed facility operating license and the conforming amendment was requested by the applicants pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Sections 50.80 and 50.90. A notice entitled, "Consideration of Approval of Transfer of Renewed Facility Operating Licenses, Materials Licenses, and Conforming Amendments Containing Sensitive Unclassified Non-Safeguards Information," was published in the *Federal Register* on December 26, 2013 (78 FR 78411). No comments or hearing requests were received.

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 NRC shall give its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that Exelon Generation is qualified to acquire and hold the operating authority under the license previously held by the licensee, and that the transfer of the license, as proposed in the application, is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission, pursuant thereto, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act and the rules and regulations of the Commission; there is

reasonable assurance that the activities authorized by the proposed conforming amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed conforming amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed conforming amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by the NRC staff's safety evaluation dated the same day as this Order.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the direct license transfer of the operating authority of the license from the licensee to Exelon Generation, as described herein, is approved, subject to the following conditions:

1. The existing E.D.F. International S.A.S. Support Agreement of approximately \$145 million, dated November 6, 2009, may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. Ginna, LLC, CENG, or Exelon Generation shall not take any action to cause E.D.F. International S.A.S., or its successors and assigns, to void, cancel, or materially modify the E.D.F. International S.A.S. Support Agreement or cause it to fail to perform, or impair its performance under the E.D.F. International S.A.S. Support Agreement, without the prior written consent of the NRC. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the CENG subsidiary licensee under the E.D.F. International S.A.S. Support Agreement.

2. Exelon Corporation shall, no later than the time the license transfers occur, enter into a Support Agreement of approximately \$245 million with the licensee. The Exelon Corporation Support Agreement shall supersede the Support Agreement provided by Exelon Generation, dated March 12, 2012, in all respects and shall be consistent with the representations contained in the August 6, 2013 transfer application. Ginna, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel, or materially modify the Exelon Corporation Support Agreement or cause it to fail to perform, or impair its performance under the Exelon Corporation Support Agreement, without the prior written consent of the NRC. The Exelon Corporation Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Exelon Corporation Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transaction and license transfers. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the licensee under the Exelon Corporation Support Agreement.
3. Exelon Corporation shall, no later than the time the license transfers occur, provide a parent guarantee in the amount of \$165 million to ensure a source of funds for the facility in the event that the existing cash pool between the licensee and CENG is insufficient to cover operating costs. The existing CENG cash pool arrangement shall be consistent with the representations contained in the 2009 Transfer Application dated January 22, 2009 (ADAMS Accession No. ML090290101). Ginna, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void,

cancel or materially modify the parent guarantee or cause it to fail to perform, or impair its performance under the parent guarantee without the prior written consent of the NRC.

4. Within 14 days of the license transfers, Exelon Generation shall submit to the NRC the Nuclear Operating Services Agreement reflecting the terms set forth in the application dated August 6, 2013. Section 7.1 of the Nuclear Operating Services Agreement may not be modified in any material respect related to financial arrangements that would adversely impact the ability of the licensee to fund safety-related activities authorized by the license without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.
5. Within 10 days of the license transfers, Exelon Generation shall submit to the NRC the amended CENG Operating Agreement reflecting the terms set forth in the application dated August 6, 2013. The amended and restated Operating Agreement may not be modified in any material respect concerning decisionmaking authority over safety, security and reliability without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.
6. At least half the members of the CENG Board of Directors must be U.S. citizens.
7. The CENG Chief Executive Officer, Chief Nuclear Officer, and Chairman of the CENG Board of Directors must be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CENG with respect to the facility's license are at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.
8. CENG will retain its Nuclear Advisory Committee (NAC) composed of U.S. citizens who are not officers, directors, or employees of CENG, EDF Inc.,

Constellation Nuclear, LLC, or CE Nuclear, LLC. The NAC will report to, and provide transparency to, the NRC and other U.S. governmental agencies regarding foreign ownership and control of nuclear operations.

9. The NAC shall prepare an annual report regarding the status of foreign ownership, control, or domination of the licensed activities of power reactors under the control, in whole or part, of CENG. The NAC report shall be submitted to the NRC within 30 days of completion, or by January 31 of each year (whichever occurs first). No action shall be taken by CENG or any entity to cause Constellation Nuclear, LLC, Exelon Generation, or their parent companies, subsidiaries or successors to modify the NAC report before submittal to the NRC. The NAC report shall be made available to the public, with the potential exception of information that meets the requirements for withholding such information from public disclosure under the regulations of 10 CFR 2.390, "Public Inspections, Exemptions, Requests for Withholding."
10. Before completion of the direct transfer of the facility's license, Exelon Generation shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that the licensees have obtained the appropriate amount of primary and secondary insurance, and have complied with the requirements of 10 CFR Part 140 of the Commission's regulations.

IT IS FURTHER ORDERED that consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct transfer, is approved. The license amendment shall be issued and made effective at the time the proposed direct transfer action is consummated.

IT IS FURTHER ORDERED that after receipt of all required regulatory approvals for the proposed direct transfer action, CENG shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt no later than 2 business day prior to the date of the closing of the direct transfer. Should the proposed direct transfer not be completed within one year of this Order's date of issuance, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the application and the non-proprietary safety evaluation dated the same date as this Order, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Room O-1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through Agencywide Documents Access and Management System (ADAMS) in the NRC Library at <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, or 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland this 25 day of March 2014.

FOR THE NUCLEAR REGULATORY COMMISSION



Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

ENCLOSURE 2

CONFORMING AMENDMENT TO
GINNA LICENSE NO. DPR-18



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

R.E. GINNA NUCLEAR POWER PLANT, LLC

DOCKET NO. 50-244

R.E. GINNA NUCLEAR POWER PLANT

AMENDMENT TO RENEWED FACILITY OPERATING LICENSE

Amendment No.
Renewed License No. DPR-18

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by R.E. Ginna Nuclear Power Plant, LLC (the licensee), dated August 6, 2013, as supplemented by letters and emails dated August 14, 2013, September 23 and 26, 2013, December 17, 2013, January 9, 2014, and February 5, 10, 14, and 21, 2014, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.
2. Accordingly, the license is amended as indicated in the attachment to this license amendment.

ATTACHMENT TO LICENSE AMENDMENT NO.
RENEWED FACILITY OPERATING LICENSE NO. DPR-18
DOCKET NO. 50-244

Replace the following pages of the Renewed Facility Operating License with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

REMOVE

1
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INSERT

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-00001

R. E. GINNA NUCLEAR POWER PLANT, LLC

EXELON GENERATION COMPANY, LLC

DOCKET NO. 50-244

R. E. GINNA NUCLEAR POWER PLANT

RENEWED FACILITY OPERATING LICENSE NO. DPR-18

1. The U.S. Nuclear Regulatory Commission (the Commission) having previously made the findings set forth in License No. DPR-18 issued December 10, 1984, has now found that:
 - A. The application to renew License No. DPR-18 filed by Rochester Gas and Electric Corporation (RG&E)* complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the rules and regulations of the Commission set forth in Title 10 of the *Code of Federal Regulations* (10 CFR) Chapter I and all required notifications to other agencies or bodies have been duly made;
 - B. Actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified to require review under 10 CFR 54.21 (a)(1), and (2) time-limited aging analyses that have been identified to require review under 10 CFR 54.21 (c), such that there is reasonable assurance that the activities authorized by this renewed license will continue to be conducted in accordance with the current licensing basis, as defined in 10 CFR 54.3, for R. E. Ginna Nuclear Power Plant (the facility), and that any changes made to the plant's current licensing basis in order to comply with 10 CFR 54.29(a) are in accord with the Act and the Commission's regulations;
 - C. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - D. There is reasonable assurance (i) that the facility can be operated at power levels up to 1520 megawatts (thermal) without endangering the health and safety of the public; and (ii) that such activities will be conducted in compliance with the regulations of the Commission (except as exempted from compliance in Section 2.D below);
 - E. R. E. Ginna Nuclear Power Plant, LLC (Ginna LLC) and Exelon Generation are technically and financially qualified to engage in the activities authorized by this renewed operating license in accordance with the rules and regulations of the Commission;

* By Order dated October 9, 2009, as superseded by Order dated October 30, 2009, the transfer of this license to R. E. Ginna Nuclear Power Plant, LLC, was approved. By Order dated _____, the transfer of the operating authority under this license to Exelon Generation Company, LLC was approved.

- F. Exelon Generation and Ginna LLC** have furnished proof of financial protection that satisfies the requirements of 10 CFR Part 140;
 - G. The issuance of this renewed license will not be inimical to the common defense and security or to the health and safety of the public; and
 - H. After weighing the environmental, economic, technical, and other benefits of the facility against environmental costs and considering available alternatives, the Commission concludes that the issuance of Renewed Operating License No. DPR-18 is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.
2. On the basis of the foregoing findings regarding this facility, Facility Operating License No. DPR-18, is superseded by Renewed Facility Operating License No. DPR-18, hereby issued to RG&E and subsequently transferred to Ginna LLC and Exelon Generation to read as follows:
- A. This renewed license applies to the R. E. Ginna Nuclear Power Plant, a closed cycle, pressurized, light-water-moderated and cooled reactor, and electric generating equipment which is owned by Ginna LLC (licensee). The facility is located on the licensee's site on the south shore of Lake Ontario, Wayne County, New York, about 16 miles east of the City of Rochester and is described in the licensee's Updated Final Safety Analysis Report (UFSAR), as supplemented and amended.
 - B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses:
 - (1) Pursuant to Section 104b of the Act and 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," (a) Ginna LLC to possess and (b) Exelon Generation to possess, use and operate the facility at the designated location in Wayne County, New York, in accordance with the procedures and limitations set forth in this renewed license;
 - (2) Exelon Generation pursuant to the Act and 10 CFR Part 70, to receive, possess, and use at any time special nuclear material or reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation as described in the Final Safety Analysis Report, as amended, and Commission Safety Evaluations dated November 15, 1976, October 5, 1984, November 14, 1984, and August 30, 1995.
 - (a) Exelon Generation pursuant to the Act and 10 CFR Part 70, to receive and store four (4) mixed oxide fuel assemblies in accordance with the RG&E's application dated December 14, 1979 (transmitted by letter dated December 20, 1979);

** Exelon Generation is authorized to act for R. E. Ginna Nuclear Power Plant, LLC and has exclusive responsibility and control over the physical possession, operation, and maintenance of the facility.

- (b) Exelon Generation pursuant to the Act and 10 CFR Part 70, to possess and use four (4) mixed oxide fuel assemblies in accordance with the RG&E's application dated December 14, 1979 (transmitted by letter dated December 20, 1979), as supplemented February 20, 1980, and March 5, 1980;
 - (3) Exelon Generation pursuant to the Act and 10 CFR Parts 30, 40, and 70 to receive, possess, and use at any time any byproduct, source, and special nuclear material as sealed neutron sources for reactor startup, sealed sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;
 - (4) Exelon Generation pursuant to the Act and 10 CFR Parts 30, 40, and 70 to receive, possess, and use in amounts as required any byproduct, source, or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
 - (5) Exelon Generation pursuant to the Act and 10 CFR Parts 30 and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.
- C. This renewed license shall be deemed to contain and is subject to the conditions specified in the following Commission regulations in 10 CFR Part 20. Section 30.34 of Part 30, Section 40.41 of Part 40, Sections 50.54 and 50.59 of Part 50, and Section 70.32 of Part 70; and is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified below:
- (1) Maximum Power Level

Exelon Generation is authorized to operate the facility at steady-state power levels up to a maximum of 1775 megawatts (thermal).
 - (2) Technical Specifications

The Technical Specifications contained in Appendix A, as revised through Amendment No. XXX, are hereby incorporated in the renewed license. The licensee shall operate the facility in accordance with the Technical Specifications.
 - (3) Fire Protection
 - (a) Exelon Generation shall implement and maintain in effect all fire protection features described in the licensee's submittals referenced in and as approved or modified by the NRC's Fire Protection Safety Evaluation (SE) dated February 14, 1979, and SE supplements dated December 17, 1980, February 6, 1981, June 22, 1981, February 27, 1985, and March 21, 1985 or

configurations subsequently approved by the NRC, subject to provision (b) below.

- (b) Exelon Generation may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.
- (c) Deleted
- (4) Deleted
- (5) Deleted
- (6) Deleted
- (7) License Transfer
 - (a) On the closing date of the transfer of the facility, Ginna LLC shall obtain from RG&E the greater of (1) \$200,791,928 or (2) the amount necessary to meet the minimum formula amount under 10 CFR 50.75 calculated as of the date of closing for decommissioning funding assurance for the facility, and ensure the deposit of such funds into a decommissioning trust for the facility established by Ginna LLC.
 - (b) The decommissioning trust agreement must be in a form acceptable to the NRC.
 - (c) Ginna LLC shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application and the requirements of the Order approving license transfer, and shall be consistent with the Safety Evaluation supporting that Order.
- (8) Mitigation Strategy

Exelon Generation shall develop and maintain strategies for addressing large fires and explosions and that include the following key areas:

 - (a) Fire fighting response strategy with the following elements:
 - 1. Pre-defined coordinated fire response strategy and guidance
 - 2. Assessment of mutual aid fire fighting assets
 - 3. Designated staging areas for equipment and materials
 - 4. Command and control
 - 5. Training of response personnel
 - (b) Operations to mitigate fuel damage considering the following:

1. Protection and use of personnel assets
2. Communications
3. Minimizing fire spread
4. Procedures for implementing integrated fire response strategy
5. Identification of readily-available pre-staged equipment
6. Training on integrated fire response strategy
7. Spent fuel pool mitigation measures

(c) Actions to minimize release to include consideration of:

1. Water spray scrubbing
2. Dose to onsite responders

(9) Control Room Envelope Habitability

Upon implementation of Amendment No. 105 adopting TSTF-448, Revision 3, the determination of control room envelope (CRE) unfiltered air inleakage as required by SR 3.7.9.4, in accordance with TS 5.5.16.c.i and the assessment of CRE habitability as required by 5.5.16.c.ii, shall be considered met. Following implementation:

- (a) The first performance of SR 3.7.9.4 in accordance with Specification 5.5.16.c.i shall be within the specified Frequency of 6 years, plus the 18-month allowance of SR 3.0.2, as measured from February 8, 2005, the date of the most recent successful tracer gas test, as-stated in the April 6, 2007 letter response to Generic Letter 2003-01, or within the next 18 months if the time period since the most recent tracer gas test is greater than 6 years.
- (b) The first performance of the periodic assessment of CRE habitability, Specification 5.5.16.c.ii, shall be within 3 years, plus the 9-month allowance of SR 3.0.2 as measured from February 8, 2005, the date of the most recent successful tracer gas test, as stated in the April 6, 2007 letter response to Generic Letter 2003-01, or within the next 9 months if the time period since the most recent successful tracer gas test is greater than 3 years.

- (10) The existing E.D.F. International S.A.S. Support Agreement of approximately \$145 million, dated November 6, 2009, may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. R. E. Ginna Nuclear Power Plant, LLC, CENG, or Exelon Generation shall not take any action to cause E.D.F. International S.A.S., or its successors and assigns, to void, cancel, or materially modify the E.D.F. International S.A.S. Support Agreement or cause it to fail to perform, or impair its performance under the E.D.F. International S.A.S. Support Agreement, without the prior written consent of the NRC. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are

provided to or for the CENG subsidiary licensee under the E.D.F. International S.A.S. Support Agreement.

- (11) Exelon Corporation shall, no later than the time the license transfers occur, enter into a Support Agreement of approximately \$245 million with the licensee. The Exelon Corporation Support Agreement shall supersede the Support Agreement provided by Exelon Generation, dated March 12, 2012, in all respects and shall be consistent with the representations contained in the August 6, 2013 transfer application. R. E. Ginna Nuclear Power Plant, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel, or materially modify the Exelon Corporation Support Agreement or cause it to fail to perform, or impair its performance under the Exelon Corporation Support Agreement, without the prior written consent of the NRC. The Exelon Corporation Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Exelon Corporation Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transaction and license transfers. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the licensee under the Exelon Corporation Support Agreement.
- (12) Exelon Corporation shall, no later than the time the license transfers occur, provide a parent guarantee in the amount of \$165 million to ensure a source of funds for the facility in the event that the existing cash pool between the licensee and CENG is insufficient to cover operating costs. The existing CENG cash pool arrangement shall be consistent with the representations contained in the 2009 Transfer Application dated January 22, 2009 (ADAMS Accession No. ML090290101). R. E. Ginna Nuclear Power Plant, LLC, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel or materially modify the parent guarantee or cause it to fail to perform, or impair its performance under the parent guarantee without the prior written consent of the NRC.
- (13) Within 14 days of the license transfers, Exelon Generation shall submit to the NRC the Nuclear Operating Services Agreement reflecting the terms set forth in the application dated August 6, 2013. Section 7.1 of the Nuclear Operating Services Agreement may not be modified in any material respect related to financial arrangements that would adversely impact the ability of the licensee to fund safety-related activities authorized by the license without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.
- (14) Within 10 days of the license transfers, Exelon Generation shall submit to the NRC the amended CENG Operating Agreement reflecting the terms set forth in the application dated August 6, 2013. The amended and restated Operating Agreement may not be modified in any material respect concerning decisionmaking authority over safety, security and

reliability without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

- (15) At least half the members of the CENG Board of Directors must be U.S. citizens.
- (16) The CENG Chief Executive Officer, Chief Nuclear Officer, and Chairman of the CENG Board of Directors must be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CENG with respect to the facility's license are at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.
- (17) CENG will retain its Nuclear Advisory Committee (NAC) composed of U.S. citizens who are not officers, directors, or employees of CENG, EDF Inc., Constellation Nuclear, LLC, or CE Nuclear, LLC. The NAC will report to, and provide transparency to, the NRC and other U.S. governmental agencies regarding foreign ownership and control of nuclear operations.
- (18) The NAC shall prepare an annual report regarding the status of foreign ownership, control, or domination of the licensed activities of power reactors under the control, in whole or part, of CENG. The NAC report shall be submitted to the NRC within 30 days of completion, or by January 31 of each year (whichever occurs first). No action shall be taken by CENG or any entity to cause Constellation Nuclear, LLC, Exelon Generation, or their parent companies, subsidiaries or successors to modify the NAC report before submission to the NRC. The NAC report shall be made available to the public, with the potential exception of information that meets the requirements for withholding such information from public disclosure under the regulations of 10 CFR 2.390, "Public Inspections, Exemptions, Requests for Withholding."

D. The facility requires an exemption from certain requirements of 10 CFR 50.46(a)(1). This includes an exemption from 50.46(a)(1), that emergency core cooling system (ECCS) performance be calculated in accordance with an acceptable calculational model which conforms to the provisions in Appendix K (SER dated April 18, 1978). The exemption will expire upon receipt and approval of revised ECCS calculations. The aforementioned exemption is authorized by law and will not endanger life property or the common defense and security and is otherwise in the public interest. Therefore, the exemption is hereby granted pursuant to 10 CFR 50.12.

E. Exelon Generation shall fully implement and maintain in effect all provisions of the Commission-approved physical security, training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27827 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The combined set of plans, which contains Safeguards Information protected under 10 CFR 73.21, is entitled: "R. E. Ginna

Nuclear Power Plant Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan," submitted by letter dated May 15, 2006.

Exelon Generation shall fully implement and maintain in effect all provisions of the Commission-approved cyber security plan (CSP), including changes made pursuant to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The licensee's CSP was approved by License Amendment No. 113.

- F. The Updated Final Safety Analysis Report supplement, submitted pursuant to 10 CFR 54.21 (d), describes certain future activities to be completed prior to the period of extended operation. Ginna LLC shall complete these activities no later than September 18, 2009, and shall notify the Commission in writing when implementation of these activities is complete and can be verified by NRC inspection.

The Updated Final Safety Analysis Report supplement, as revised, shall be included in the next scheduled update to the Updated Final Safety Analysis Report required by 10 CFR 50.71 (e)(4) following issuance of this renewed license. Until that update is complete, the licensee may make changes to the programs and activities described in the supplement without prior Commission approval, provided that the licensee evaluates each such change pursuant to the criteria set forth in 10 CFR 50.59 and otherwise complies with the requirements in that section.

- G. All capsules in the reactor vessel that are removed and tested must meet the test procedures and reporting requirements of ASTM E 185-82 to the extent practicable for the configuration of the specimens in the capsule. Any changes to the capsule withdrawal schedule, including spare capsules, must be approved by the NRC prior to implementation. Any capsules placed in storage must be maintained for future insertion, unless approved by the NRC.
- H. This renewed license is effective as of the date of issuance and shall expire at midnight on September 18, 2029.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed By

J. E. Dyer, Director
Office of Nuclear Reactor Regulation

Attachment: Appendix A - Technical Specifications

Date of Issuance:

ENCLOSURE 3

**SAFETY EVALUATION
(NON-PROPRIETARY)**



~~OFFICIAL USE ONLY — PROPRIETARY INFORMATION~~
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

DIRECT TRANSFER OF OPERATING AUTHORITY

FROM

CALVERT CLIFFS NUCLEAR POWER PLANT, LLC

NINE MILE POINT NUCLEAR STATION, LLC

R.E. GINNA NUCLEAR POWER PLANT, LLC

TO

EXELON GENERATION COMPANY, LLC

CALVERT CLIFFS NUCLEAR POWER PLANT, UNIT NOS. 1 AND 2

CALVERT CLIFFS INDEPENDENT SPENT FUEL STORAGE INSTALLATION

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

R.E. GINNA NUCLEAR POWER PLANT

DOCKET NOS. 50-317, 50-318, 72-8, 50-220, 50-410, AND 50-244

1.0 INTRODUCTION

By application dated August 6, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML13232A156 and ML13232A157), Constellation Energy Nuclear Group, LLC (CENG), acting on behalf of itself, Exelon Generation Company, LLC (Exelon Generation), and its subsidiary licensees, Calvert Cliffs Nuclear Power Plant, LLC (Calvert Cliffs, LLC), Nine Mile Point Nuclear Station, LLC (Nine Mile Point, LLC), and R.E. Ginna Nuclear Power Plant, LLC (Ginna, LLC) (together, the applicants), pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and Title 10 of the *Code of Federal Regulations* (10 CFR) Sections 50.80, 50.90, and 72.50, requested that the U.S. Nuclear Regulatory Commission (NRC) approve the proposed direct transfer of operating authority only for the following licenses to Exelon Generation, as follows:

1. Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 (Calvert Cliffs 1 and 2), Renewed Facility Operating License Nos. DPR-53 and DPR-69 to be transferred from Calvert Cliffs, LLC to Exelon Generation.
2. Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI), Materials License No. SNM-2505 to be transferred from Calvert Cliffs, LLC to Exelon Generation.

3. Nine Mile Point Nuclear Station, Unit Nos. 1 and 2 (Nine Mile Point 1 and 2), Renewed Facility Operating License Nos. DPR-63 and NPF-69 to be transferred from Nine Mile Point, LLC to Exelon Generation.
4. R.E. Ginna Nuclear Power Plant (Ginna), Renewed Facility Operating License No. DPR-18 to be transferred from Ginna, LLC to Exelon Generation.

The applicants also requested the approval of conforming license amendments to reflect the transfers of operating authority. The supplemental information to the application did not expand the scope of the application as originally noticed in the *Federal Register*.

The application was supplemented by letters and emails dated August 14, 2013 (ADAMS Accession No. ML13228A186), September 23, 2013 (ADAMS Accession No. ML13269A131), September 26, 2013 (ADAMS Accession No. ML14057A714), December 17, 2013 (ADAMS Accession No. ML13360A200), January 9, 2014 (ADAMS Accession Nos. ML14023A575, ML14023A576, and ML14057A849), February 5, 2014 (ADAMS Accession No. ML14050A371), February 10, 2014 (ADAMS Accession No. ML14045A000), February 14, 2014 (ADAMS Accession No. ML14057A713), and February 21, 2014 (ADAMS Accession No. ML14071A478). The application and supplements are collectively, the Application.

2.0 BACKGROUND

2.1 Description of the Entities

2.1.1 CENG

The CENG is a wholly owned subsidiary of two entities, Exelon Generation and EDF International SAS (EDFI). Exelon Generation, through intermediate subsidiaries, has a 50.01 percent ownership interest in CENG. Exelon Generation is a wholly owned subsidiary of Exelon Ventures Company, which is a wholly owned subsidiary of Exelon Corporation. Exelon Corporation is the ultimate parent holding company, and its stock is publicly traded on the New York Stock Exchange and widely held. EDF Inc. is the other parent company of CENG, with a 49.99 percent ownership interest of CENG.

The CENG has three NRC licensee subsidiary companies: (1) Calvert Cliffs, LLC, (2) Nine Mile Point, LLC, and (3) Ginna, LLC (collectively, the Owner-Licensees), which own and operate the nuclear power plants of the same respective names.¹

The CENG is a nuclear operating business. As a result of the 2012 merger with CENG's previous parent company, Constellation Energy Group, Inc. (CEG), Exelon Generation indirectly owns a 50.01 percent interest in CENG. Exelon described the current proposed transaction in its February 14, 2014 U.S. Securities and Exchange Commission (SEC) 10K filing, page 11:

"The transfer of the operational control to Exelon [Corporation] and [Exelon] Generation will result in Exelon [Corporation] and [Exelon] Generation being required to consolidate the financial position and results of operations of CENG. When that accounting change occurs, Exelon [Corporation] and [Exelon] Generation will derecognize its equity method investment in CENG and will record all assets,

¹ CENG owns a 100 percent interest in Constellation Nuclear Power Plants, LLC, which owns 100 percent interests in each of the subsidiary licensees.

liabilities and the non-controlling interest in CENG at fair value on Exelon [Corporation] and [Exelon] Generation's balance sheets."

In connection with obtaining operational control, Exelon Corporation and Exelon Generation will obtain a "controlling financial interest" in CENG, which per accounting standards results in Exelon Generation consolidating its financial results with CENG.

2.1.2 Exelon Corporation and Exelon Generation

Exelon Generation is a subsidiary of Exelon Corporation and operates 17 nuclear units in Illinois, Pennsylvania, and New Jersey. Exelon Generation indirectly owns 50.01 percent of CENG. Following the proposed transaction, Exelon Generation will operate an additional 5 nuclear units in Maryland and New York. Exelon Corporation is one of the nation's largest energy companies, and a leading supplier of electricity, with a power generation portfolio of approximately 44,000 megawatts. Exelon Corporation's operations include energy generation, power marketing, and energy delivery.

2.1.3 EDF Inc.

EDF Inc. is a U.S. corporation organized under the laws of the State of Delaware. EDF Inc. is 82.5 percent owned by E.D.F. International SAS, a limited company organized under the laws of France, which is in turn a wholly owned subsidiary of Electricité de France SA, a French limited company (EDF). The remaining 17.5 percent non-controlling ownership interest in EDF Inc. is held by EDF Trading Limited, which is wholly owned by EDF Holdings SAS, which is wholly owned by EDF.

2.1.4 Calvert Cliffs 1 and 2

Calvert Cliffs is located on the Chesapeake Bay, approximately 40 miles south of Annapolis, Maryland. Calvert Cliffs has two pressurized light-water nuclear power reactors, each generating 2,737 megawatts-thermal (MWt) of power. Calvert Cliffs, LLC, is the sole owner and licensed operator for Calvert Cliffs 1 and 2, pursuant to licenses issued by the NRC.

In addition, Calvert Cliffs is also the site of the Calvert Cliffs ISFSI, which is operated in accordance with a 10 CFR Part 72 ("Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High Level Radioactive Waste, and Reactor Related Greater Than Class C Waste") license. Calvert Cliffs, LLC submitted a license renewal application for the ISFSI (ADAMS Accession No. ML102650247), which is currently pending.

2.1.5 Nine Mile Point 1 and 2

Nine Mile Point is located on Lake Ontario, approximately 6 miles northeast of Oswego, New York. Nine Mile Point has two boiling-water reactors, Unit No.1 generates 1,850 MWt of power and Unit No. 2 generates 3,988 MWt of power. Nine Mile Point, LLC is the owner and licensed operator of Nine Mile Point 1, and also an 82 percent owner and the licensed operator for Nine Mile Point 2. Long Island Power Authority owns the remaining 18 percent of Nine Mile Point 2. Long Island Power Authority is unaffected by the associated license transfers.

In addition, these same entities pay corresponding shares of the costs of operating Nine Mile Point 2, but Nine Mile Point, LLC currently retains control over the operation of the

facility and is designated as the licensee with operating authority. Nine Mile Point is also the site of the Nine Mile Point ISFSI, which is operated in accordance with a general license.

2.1.6 Ginna

Ginna, located in Ontario, New York, approximately 20 miles northeast of Rochester, is a single unit pressurized light-water nuclear power reactor, generating 1,775 MWt of power. Ginna, LLC is the sole owner and licensed operator for Ginna, pursuant to a license issued by the NRC. Ginna is also the site of the Ginna ISFSI, which is operated in accordance with a general license.

2.2 Description of the Transaction

Exelon Generation and CENG requested NRC approval of the transfer of operating authority of the CENG facilities to Exelon Generation, to allow the pooling of resources for the operation of Calvert Cliffs 1 and 2, Nine Mile Point 1 and 2, and Ginna (together, the facilities) as part of the Exelon Generation nuclear fleet. According to the Application, following the proposed direct transfer, Exelon Generation will become the licensed operator and will integrate the operation of the CENG nuclear fleet into the existing operation of Exelon Generation's nuclear fleet. Exelon Generation and the Owner-Licensees of each site (each being a single, member-managed limited liability company that is owned and controlled by CENG) will enter into a Nuclear Operating Service Agreement (NOSA), pursuant to which Exelon Generation will assume operating responsibility for operation of the facilities and the Owner-Licensees will retain responsibility for paying for the costs of operation and decommissioning.

According to the Application, the legal ownership of the facilities will not be affected².

3.0 REGULATORY EVALUATION

Pursuant to 10 CFR 50.80 and 10 CFR 72.50, the applicants requested the approval of the direct transfer of operating authority for the licenses listed above and as discussed in this safety evaluation (SE). The regulation at 10 CFR 50.80(a) states:

No license for a production or utilization facility...or any right thereunder, shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing.

The regulation at 10 CFR 72.50 states the following:

No license or any part included in a license issued under this part for an ISFSI or MRS [monitored retrievable storage installation] shall be transferred, assigned, or in any manner disposed of...unless the Commission gives its consent in writing.

In addition, the regulations at 10 CFR 50.80(b) and (c) and 10 CFR 72.50(b) and (c) apply. Section 50.80(b) states that an application for a license transfer shall include as much information described in 10 CFR 50.33, "Contents of applications; general information," and

² It should be noted that EDF Inc. has a put option to sell its 49.99 percent stake in CENG to Exelon Generation between 2016 and 2022 at fair market value. If the put option were exercised, Exelon Generation would become the 100 percent owner of the CENG facilities, subject to any required NRC approval at the time.

10 CFR 50.34, "Contents of applications; technical information," "with respect to the identity and technical and financial qualifications of the proposed transferee as would be required by those sections if the application were for an initial license."

The regulation at 10 CFR 50.80(c) states the following:

[T]he Commission will approve an application for the transfer of a license, if the Commission determines: (1) That the proposed transferee is qualified to be the holder of the license; and (2) That transfer of the license is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The NRC staff evaluated whether the financial qualifications of the licensees would be affected by the proposed transfers in a manner that is consistent with the guidance provided in NUREG-1577, Revision 1, "Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance," issued February 1999.

The NRC staff used the following regulation and guidance to evaluate the technical qualifications: 10 CFR 50.40(b), "Common standards" and the Standard Review Plan (SRP) (NUREG-0800), Section 13.1.1, "Management and Technical Support Organization," and SRP Sections 13.1.2 - 13.1.3, "Operating Organization."

In addition, the regulations at 10 CFR 50.80(b) and (c) and 10 CFR 72.50(b) and (c) state the same requirements regarding a license for an ISFSI.

4.0 FINANCIAL QUALIFICATIONS

The regulation at 10 CFR 50.33(f) provides that each application shall state the following:

Except for an electric utility applicant for a license to operate a utilization facility of the type described in § 50.21(b) or § 50.22, [an application shall state] information sufficient to demonstrate to the Commission the financial qualification of the applicant to carry out, in accordance with regulations in this chapter, the activities for which the permit or license is sought.

The regulation at 10 CFR 50.2, "Definitions," states, in part, that an electric utility is the following:

Any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority.

The NRC finds that the Owner-Licensees of the facilities do not qualify as electric utilities as defined in 10 CFR 50.2.

In accordance with 10 CFR 50.33(f), a non-utility applicant must provide sufficient information to demonstrate its financial qualifications to carry out the activities for which the license is being sought. The information must show that the applicant possesses, or has reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the license.

In making this showing, the applicant must submit estimated total annual operating costs for the first 5 years of facility operations and indicate the source(s) of funds to cover these costs. For license transfers, the relevant 5-year period is that time immediately following the transfer of control.

Also, 10 CFR 50.33(k)(1) requires that the licensees for the facilities must provide information as described in 10 CFR 50.75, "Reporting and Recordkeeping for Decommissioning Planning," demonstrating that there will be no effect on the licensees' provision of reasonable assurance that funds will be available to decommission the facilities. Section 5.0 of this SE discusses decommissioning funding assurance.

The NRC staff reviewed the financial projections for the reasonableness of estimated operating costs, the reasonableness of financial projections and underlying assumptions, and the sensitivity of plant revenue projections and cashflows to determine if the licensees possess or have reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the licenses.

4.1 Calvert Cliffs, LLC

Following the transfer, CENG's wholly owned subsidiary, Calvert Cliffs, LLC will remain the 100 percent owner and Exelon Generation will become the licensed operator of Calvert Cliffs 1 and 2 and the Calvert Cliffs ISFSI. According to SEC filings, Exelon Generation will consolidate CENG, including CENG's subsidiaries, in its financial statements. Thus, the financial position and results of operations of Calvert Cliffs, LLC will be included on Exelon Generation's financial statements. Consolidation of financial results is required by accounting standards when a parent company obtains a controlling financial interest in a subsidiary.

Projected Income Statements

According to the applicants, the Projected Income Statement includes revenue based on the approved 2014 – 2018 Exelon Corporation long range plan. There are no legacy power purchase agreements at Calvert Cliffs, LLC.

Table 1 is on the following page. It is an abbreviated version of the Projected Income Statement submitted in the Application.

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Table 1
(Abbreviated) Projected Income Statement
Calvert Cliffs, LLC
(Calvert Cliffs 1 and 2)
[]

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Total Revenue	[]
Total Op. Exp.	[]
Operating Income	[]
Less Expenses & Tax	[]
Net Income	[]

In response to the NRC staff's request for additional information (RAI), the applicants submitted market projections for the price of power for the PJM Regional Transmission Organization, which covers the geographical area of Calvert Cliffs 1 and 2. The NRC staff finds that as of the date of the Application, the Calvert Cliffs, LLC Projected Income Statement shows that the anticipated revenues from sales of energy will exceed the anticipated expenses for the 5-year period summarized in the projections.

The NRC staff evaluated the applicants' projections and assumptions for reasonableness. The NRC staff notes that the Projected Income Statements reflect declines in the price of electricity since 2011. Exelon Corporation's submitted projections have declined since the last projections for the same time period submitted to the NRC on May 12, 2011. According to the licensee, between 2011 and 2014, the projected revenues for 2014 for Calvert Cliffs, LLC declined from [] million to [] million (approximately [] percent) and net income declined from [] million to [] million (approximately [] percent).

Plant Capacity Factor

In response to the NRC staff's RAI, the applicants provided the assumptions used for the projected capacity factors for Calvert Cliffs 1 and 2 for 2014-2017, which ranged between [] percent and [] percent. The NRC staff compared the projected capacity factors to historic capacity factors listed in NUREG-1350, "Information Digest," (Volume 25) and determined that for the period of 2007 to 2012, the average capacity factor for Calvert Cliffs 1 and 2 was between 91 percent and 96.5 percent. The NRC staff has concluded that the capacity factors and market price assumptions used in the pro-forma projections are reasonable.

Sensitivity Analysis

The NRC staff conducted a sensitivity analysis on the projected income statement for Calvert Cliffs, LLC. The NRC staff's analysis focuses on how sensitive the revenue forecasts are to lower power prices for the purpose of establishing a projected market price below which the

plant would begin to have difficulty covering its operating expenses by relying on revenues alone. The sensitivity analysis assumed that projected revenues for the years 2014 through 2018 would be 10 percent less than projected by the applicants. Lower revenues could result from lower market prices of electricity, lower capacity factors, or both. With all other assumptions constant, the results of the sensitivity analysis with a 10 percent revenue reduction showed that Calvert Cliffs would have []

The sensitivity analyses indicate that if 10 percent lower capacity or lower market prices occur compared to the applicant's forecast, the Calvert Cliffs 5-year projections []

Cashflow Trend Analysis

The NRC staff also reviewed cashflow projections provided on February 14, 2014. Cashflow is an indication of the company's ongoing ability to cover expenses. Negative cashflow indicates that even if a company is generating revenue, it is relying on alternative sources of funds to cover expenses.

On February 21, 2014, the applicants provided cashflow statements for Calvert Cliffs.

Projected cashflows for Calvert Cliffs 2014-2018 were []

The NRC staff performed a sensitivity analysis which showed that if revenue projections were to decline or operating expenses were to increase by 10 percent, there would be []

As stated in the Application, Exelon Corporation and EDFI will maintain support agreements in an amount sufficient to ensure that the total amount of funding available is sufficient to cover estimated fixed operating and maintenance costs for a 6-month outage. EDFI will provide support in an amount of \$145 million and Exelon Corporation will provide \$245 million, to be reflected in license conditions.

Financial Qualifications Conclusion for Calvert Cliffs, LLC

Accordingly, based on the above, the NRC staff finds that Calvert Cliffs, LLC has reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the license, including a 6 month outage, and thus, will continue to be financially qualified to hold the license subsequent to the transfer.

4.1.1 Calvert Cliffs ISFSI

The regulations at 10 CFR 72.50(a) state the following:

No license or any part included in a license issued under this part for an ISFSI or MRS shall be transferred, assigned, or in any manner disposed of...unless the Commission gives its consent in writing.

Further, 10 CFR 72.50(b)(1) states the following:

An application for transfer of a license must include as much of the information described in §§ 72.22 and 72.28 with respect to the identity and the technical and

financial qualifications of the proposed transferee as would be required by those sections if the application were for an initial license.

The NRC staff notes that the costs of casks used to store spent fuel in the Calvert Cliffs ISFSI are not included as part of the nuclear fuel batch cost and are not recorded as expenses in Table 1 above. The operating costs resulting from loading spent nuclear fuel into casks for storage in the Calvert Cliffs ISFSI are not included in the projections for operations and maintenance, which are included in the "Total Op. Exp." of Table 1 above. Pursuant to a settlement that was entered into with the U.S. Department of Energy, these costs are recovered from the U.S. Government each year.

Accordingly, the NRC finds that Calvert Cliffs, LLC has reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the license and, thus, will continue to be financially qualified to hold the Calvert Cliffs ISFSI license, notwithstanding further declines in market prices of electricity.

4.2 Nine Mile Point, LLC

The CENG wholly owned subsidiary, Nine Mile Point, LLC is the 100 percent owner and licensed operator of Nine Mile Point 1, and is also the 82 percent owner and the licensed operator of Nine Mile Point 2. Long Island Power Authority owns the remaining 18 percent of Nine Mile Point 2, and is unaffected by the associated license transfers.

Projected Income Statement

As stated in the Application, the Projected Income Statement includes revenue for Nine Mile Point 1 that is presented using projected information from the approved Exelon Corporation 2014 – 2018 Strategic Plan. Revenues are expected from the sale of the generating output of Nine Mile Point 1 and 2 from both power purchase agreements and sales of energy at market, which are affected by market prices. Further, Nine Mile Point 2 has a revenue-sharing agreement that started in December 2011 and is set to expire in November 2021. In response to NRC staff RAI, the applicants submitted market projections for the price of power for the New York ISO, which covers the geographical area of Nine Mile Point 1 and 2.

Table 2 is on the following page. It is an abbreviated version of the Projected Income Statement submitted in the Application.

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Table 2
(Abbreviated) Projected Income Statement
Nine Mile Point, LLC
(Nine Mile Point 1 and 2)
[]

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Total Revenue	[]
Total Op. Exp.	[]
Operating Income	[]
Less Expenses & Tax	[]
Net Income	[]

The Nine Mile Point, LLC's Projected Income Statement shows that the anticipated revenues from sales of energy and capacity from Nine Mile Point 1 and 2 will exceed the anticipated expenses of Nine Mile Point 1 and 2 for the 5-year period summarized in the projections. The NRC staff conducted an independent assessment of the assumptions to determine if the projected income statement is reasonable.

Plant Capacity Factor

The NRC staff evaluated the capacity factor assumptions provided by the applicants based on the guidance in Section III.1 of NUREG 1577, which provides that the NRC staff evaluate projections for reasonableness, based on a number of plant factors relevant to the source of revenues. The capacity factor assumptions were [] percent (2014), [] percent (2015), [] percent (2016), [] percent (2017), and [] percent (2018). The NRC staff compared these capacity factors to the historic capacity factors of Nine Mile Point 1 and 2, as follows 90.6 percent (2007), 95.5 percent (2008), 95.5 percent (2009), 87.5 percent (2010), 86.5 percent (2011), and 86 percent (2012). The NRC staff finds that the projected capacity factors are higher than capacity factors based on the most recent operating experience of Nine Mile Point.

Sensitivity Analysis

The NRC staff conducted a sensitivity analysis on the projected income statement for Nine Mile Point. The purpose of the analysis is to determine the level below which the plant would begin to have difficulty covering its operating expenses by revenues alone. With all other assumptions constant, the results showed that [

]

During a teleconference with the NRC staff on February 10, 2014, the applicants indicated that financial impacts related to Long Island Power Authority's ownership interest in Nine Mile Point 2 and revenue sharing agreements are included in the Projected Income Statements provided in the Application. The NRC staff notes that the Projected Income Statements reflect declines in

the price of electricity since 2011. The Exelon Corporation projections for the same time period have declined since the last projections submitted to the NRC on May 12, 2011. The 2014 projected revenues for Nine Mile Point declined from [] million to [] million (approximately [] percent) and net income declined from [] million to [] million (approximately [] percent).

Cashflow Trend Analysis

The NRC staff also reviewed cashflow projections provided on February 21, 2014 for Nine Mile Point. Projected cashflows for Nine Mile Point for 2014 – 2018 showed [] The NRC staff performed a sensitivity analysis which showed that if revenue projections were to decline or operating expenses were to increase by 10 percent, there would be []

Financial Qualifications Conclusion for Nine Mile Point, LLC

Based on the information provided in the Application indicating [] projections based on a 3 percent sensitivity analysis, [] projections for [] for multiple years based on a 10 percent sensitivity analysis, and declining forward power prices as reflected in the Exelon Corporation submissions to the NRC and SEC, an additional source of funding is necessary to provide reasonable assurance of obtaining the funds necessary to cover the estimated operating costs for the period of the license³. Exelon Corporation has agreed to provide a guarantee stating that it agrees to make available and guarantee lending to Calvert Cliffs, LLC, Nine Mile Point, LLC, and Ginna, LLC of a total principal amount up to \$165 million if requested by any plant. The amount provided by the master demand note is sufficient to cover the largest annual projected [] on February 21, 2014. Exelon Corporation has also committed to providing additional financial support for the units in the form of a \$245 million support agreement.

³ The NRC staff has previously made three findings of reasonable assurance of financial qualifications for plants with a negative income statement as part of an indirect license transfer. The first finding, summarized in the July 28, 2008, SE for an indirect transfer of control, related to a restructuring of Entergy Corporation (ADAMS Accession No. ML081080352), addressed a negative net income statement for Vermont Yankee Nuclear Power Station (VY). The NRC staff found VY financially qualified, based in part on additional sources of funds provided by support agreements put in place by Entergy Corporation, the parent company of VY, and access to a line of credit.

The second finding, summarized in the October 30, 2009, SE for direct and indirect transfers of control related to corporate restructuring and EDF Inc.'s acquisition of a 49.99 percent ownership interest in CENG (ADAMS Accession No. ML093010003), addressed a negative net income statement for Ginna. The NRC staff found Ginna financially qualified, based in part on additional financial arrangements provided by support agreements from CEG and EDF Inc., the parent companies of CENG, and a master demand note.

Finally, the third finding, summarized in the February 15, 2012, SE for an indirect transfer of control related to the merger between Exelon and CEG, addressed a negative net income statement for R.E. Ginna, LLC, for the period of 2012-2016 (ADAMS Accession No. ML113560408). In addition to the Projected Income Statement, the application also included a projected statement of operating cash flows for R.E. Ginna, LLC, and the 5-year cash flow projections showed a negative cash flow for 2012, 2014, and 2015. The NRC staff found R.E. Ginna, LLC, financially qualified, based in part on additional financial arrangements provided by an increase in the financial support agreements from Exelon Generation and EDF Inc., the indirect parent companies of CENG, and the master demand note. Together, the financial support agreements and master demand note ensured that the total amount of funding available was sufficient in light of changes in estimated fixed operating and maintenance costs for a 6-month outage.

Based on the above, the NRC staff finds that Nine Mile Point, LLC has reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the license, including a six month outage and, thus, will continue to be financially qualified to hold the license subsequent to the license transfer.

4.3 Ginna, LLC

The CENG wholly owned subsidiary, Ginna, LLC is the 100 percent owner and licensed operator of Ginna, under a license issued by the NRC. According to the Application, the Projected Income Statement includes revenue based on the 2014 – 2018 Exelon Strategic Plan. Revenue projections for Ginna include a power purchase agreement with Rochester Gas & Electric, which will expire in June 2014.

Table 3 is an abbreviated version of the Projected Income Statement submitted in the Application.

Table 3
(Abbreviated) Projected Income Statement
Ginna, LLC
(Ginna)
[]

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Total Revenue	[]
Total Op. Exp.	[]
Operating Income	[]
Less Expenses & Tax	[]
Net Income	[]

The Application indicated that Ginna, LLC has a [] for the period 2014 – 2018. Without an additional source of funding, the NRC staff would be unable to find that Ginna, LLC has reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the license.

The NRC staff evaluated the pro forma projections and underlying assumptions. The capacity factor assumptions provided by the applicants were [] percent (2014), [] percent (2015), [] percent (2016), [] percent (2017), and [] percent (2018). The NRC staff compared these capacity factors to the historic capacity factors of Ginna as follows (84 percent-100.00 percent). The NRC staff finds that the projected capacity factors are reasonable.

Cashflow Trend Analysis

The NRC staff also reviewed cashflow projections provided on February 21, 2014 for Ginna. Projected cashflows for Ginna for 2014 – 2018 showed [] for the period reviewed.

Financial Qualifications Conclusion for Ginna

The NRC staff would be unable to find that Ginna, LLC has reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the license due to its [] as reflected in the Exelon Corporation submissions to the NRC and SEC, absent an additional source of funds.

As stated previously, Exelon Corporation has agreed to provide a guarantee stating that it agrees to make available and guarantee lending to Calvert Cliffs, LLC, Nine Mile Point, LLC, and Ginna, LLC of a total principal amount up to \$165 million if requested by any plant. The amount provided by the guarantee is sufficient to cover the largest annual projected negative cash flow amount for Ginna, as submitted in the cashflow projections on February 21, 2014. Exelon Corporation has also committed to providing additional financial support for the units in the form of a \$245 million support agreement.

Based on the above, the NRC staff finds that Ginna, LLC has reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the license, including a 6-month outage and, thus, will continue to be financially qualified to hold the license subsequent to the license transfer.

4.4 Exelon Generation

Exelon Generation is a subsidiary of Exelon Corporation. The applicants submitted pro forma financial statements for Exelon Generation with the Application and stated that Exelon Generation would demonstrate its financial qualifications on the basis of funds received from the Owner-Licensees.⁴ However, the NRC staff is unable to find Exelon Generation financially qualified on the basis of the Owner-Licensees because two of the Owner-Licensees require additional funding to be financially qualified and the Owner-Licensees do not have a guaranteed source of funds such as via rate recovery to obtain the additional funds needed. Exelon Generation's pro forma financial statements demonstrate positive net income and cashflow for the five year period. However, due to declines in electricity revenues for nuclear plants as disclosed by Exelon Corporation in its SEC 10K filing, the NRC staff requested additional information.

Table 4 is on the following page. It is an abbreviated version of the Projected Income Statement submitted in the Application.

⁴ In Northern States Power Company, CLI-00-14, 52 NRC 37, (2000), a parent company, Nuclear Management Company was able to demonstrate financial qualifications through contractual arrangements with a utility owner (Monticello Nuclear Generating Plant) that was found to be financially qualified due to cost recovery via ratemaking.

market volatility, which could also adversely affect Exelon [Corporation]'s and [Exelon] Generation's results of operations, cash flows and financial position.

4.6 Conclusion on Financial Qualifications

The NRC staff notes that the overall financial positions of the Owner-Licensees, Exelon Generation, CENG and EDF Inc. have changed since the transfers approved by the NRC in 2009 and 2012, due to declining power prices, as reflected in the discussion above.

Further, the NRC staff notes changes in the corporate and financial arrangements between the parties, as reflected in the transfer documents providing Exelon Corporation operating control over the CENG facilities, combined with revisions to the CENG Operating Agreement, the NOSA, and various other documents. Finally, the NRC staff has concluded that there is significant uncertainty in the Owner-Licensees' ability to continue to provide sufficient funds to cover operating costs for the period of the license without additional sources of funding.

In consideration of all of the foregoing, the NRC staff finds that to ensure that the licensees will continue to have reasonable assurance of obtaining the funds to continue safe operations, the NRC approval of the license transfers shall be subject to and the license shall contain the following conditions:

1. The existing E.D.F. International S.A.S. Support Agreement of approximately \$145 million, dated November 6, 2009, may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. The Owner-Licensees, CENG, or Exelon Generation shall not take any action to cause E.D.F. International S.A.S., or its successors and assigns, to void, cancel, or materially modify the E.D.F. International S.A.S. Support Agreement or cause it to fail to perform, or impair its performance under the E.D.F. International S.A.S. Support Agreement, without the prior written consent of the NRC. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for the CENG subsidiary licensees under the E.D.F. International S.A.S. Support Agreement.
2. Exelon Corporation shall, no later than the time the license transfers occur, enter into a Support Agreement of approximately \$245 million with the Owner-Licensees. The Exelon Corporation Support Agreement shall supersede the Support Agreement provided by Exelon Generation, dated March 12, 2012, in all respects and shall be consistent with the representations contained in the August 6, 2013 transfer application. The Owner-Licensees, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel, or materially modify the Exelon Corporation Support Agreement or cause it to fail to perform, or impair its performance under the Exelon Corporation Support Agreement, without the prior written consent of the NRC. The Exelon Corporation Support Agreement may not be amended or modified without 30 days prior written notice to the Director of the Office of Nuclear Reactor Regulation or his designee. An executed copy of the Exelon Corporation Support Agreement shall be submitted to the NRC no later than 30 days after the completion of the proposed transaction and license transfers. Exelon Generation shall inform the NRC in writing no later than 14 days after any funds are provided to or for any of the Owner-Licensees under the Exelon Corporation Support Agreement.
3. Exelon Corporation shall, no later than the time the license transfers occur, provide a parent guarantee in the amount of \$165 million to ensure a source of funds for the

facilities in the event that the existing cash pool between the Owner-Licensees and CENG is insufficient to cover operating costs. The existing CENG cash pool arrangement shall be consistent with the representations contained in the 2009 Transfer Application dated January 22, 2009 (ADAMS Accession No. ML090290101). The Owner-Licensees, CENG, or Exelon Generation shall not take any action to cause Exelon Corporation, or its successors and assigns, to void, cancel or materially modify the parent guarantee or cause it to fail to perform, or impair its performance under the parent guarantee without the prior written consent of the NRC.

4. Within 14 days of the license transfers, Exelon Generation shall submit to the NRC the Nuclear Operating Services Agreement reflecting the terms set forth in the application dated August 6, 2013. Section 7.1 of the Nuclear Operating Services Agreement may not be modified in any material respect related to financial arrangements that would adversely impact the ability of the licensee to fund safety-related activities authorized by the license without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.
5. Within 10 days of the license transfers, Exelon Generation shall submit to the NRC the amended CENG Operating Agreement reflecting the terms set forth in the application dated August 6, 2013. The amended and restated Operating Agreement may not be modified in any material respect concerning decisionmaking authority over safety, security and reliability without the prior written consent of the Director of the Office of Nuclear Reactor Regulation.

5.0 DECOMMISSIONING FUNDING

The NRC has determined that the requirements to provide assurance of decommissioning funding and provision of an adequate amount of decommissioning funding are necessary to ensure the adequate protection of public health and safety. The regulation at 10 CFR 50.33(k) requires that an applicant for an operating license for an utilization facility contain information to demonstrate how reasonable assurance will be provided that funds will be available to decommission the facility. A similar requirement is imposed on ISFSIs under 10 CFR 72.22(e).

The regulation at 10 CFR 50.75(b) requires the following:

Each power reactor applicant for or holder of an operating license...for a production or utilization facility of the type and power level specified in paragraph (c) of this section shall submit a decommissioning report, as required by § 50.33(k).

Further, the regulation at 10 CFR 50.75(c) provides the "Table of minimum amounts (January 1986 dollars) required to demonstrate reasonable assurance of funds for decommissioning by reactor type and power level, P (in MWt); adjustment factor."

In accordance with 10 CFR 50.75(f)(1), CENG reported information on the status of decommissioning funding for the facilities as of December 31, 2012, to the NRC in its decommissioning funding status (DFS) report, dated March 27, 2013 (ADAMS Accession No. ML13098A084). The NRC staff documented its review of the DFS report in SECY-13-0105, "Summary Findings Resulting from the Staff Review of the 2013 Decommissioning Funding Status Reports for Operating Power Reactor Licensees," dated October 2, 2013 (ADAMS Accession No. ML13266A084).

5.1 Calvert Cliffs 1 and 2

Calvert Cliffs, LLC currently provides decommissioning funding assurance for Calvert Cliffs 1 and 2 through existing prepaid decommissioning trust fund assets, in accordance with 10 CFR 50.75(e)(1)(i).

The NRC staff verified the calculations provided by the applicants in the aforementioned DFS report for Calvert Cliffs 1 and 2 as of December 31, 2012. Based on its review of the 2013 DFS report, the NRC staff determined that Calvert Cliffs 1 and 2 was providing adequate decommissioning funding assurance in accordance with the NRC's regulations.

In addition, in accordance with 10 CFR 72.30(b), the applicants provided an ISFSI decommissioning funding plan in connection with the licensing of the Calvert Cliffs ISFSI, which has subsequently been updated and submitted to the NRC. The applicants stated that it is providing decommissioning funding assurance for the Calvert Cliffs ISFSI in accordance with 10 CFR 72.30(c)(5), and that the Calvert Cliffs ISFSI decommissioning trust fund is separately identified and not included as part of the Calvert Cliffs 1 and 2 radiological trust fund reported in the CENG DFS report.

Based on its analysis, the NRC staff has concluded that the applicants have complied with the regulations at 10 CFR 50.75(b) and (c) with respect to providing decommissioning funding assurance for Calvert Cliffs 1 and 2, and with the regulations at 10 CFR 72.30(c) with respect to providing decommissioning funding assurance for the Calvert Cliffs ISFSI.

5.2 Nine Mile Point 1 and 2

Nine Mile Point, LLC currently provides decommissioning funding assurance for Nine Mile Point 1 and its ownership share of Nine Mile Point 2 through existing prepaid decommissioning trust fund assets in accordance with 10 CFR 50.75(e)(1)(i).

The NRC staff verified the calculations provided by the applicants in the aforementioned DFS report for Nine Mile Point 1 and 2 as of December 31, 2012. Based on its review of the 2013 DFS report, the NRC staff determined that Nine Mile Point 1 and 2 was providing adequate decommissioning funding assurance in accordance with the NRC's regulations.

Based on its analysis, the NRC staff has concluded that the applicants have complied with the regulations at 10 CFR 50.75(b) and (c) with respect to providing decommissioning funding assurance for Nine Mile Point 1 and its ownership share of Nine Mile Point 2.

5.3 Ginna

Ginna, LLC currently provides decommissioning funding assurance for Ginna through its existing decommissioning trust fund assets, in accordance with 10 CFR 50.75(e)(1)(ii).

The NRC staff verified the calculations provided by the applicants in the aforementioned DFS report for Ginna as of December 31, 2012. Based on its review of the 2013 DFS report, the NRC staff determined that Ginna was providing adequate decommissioning funding assurance in accordance with the NRC's regulations.

The applicants stated that they are providing financial assurance for the decommissioning of the Ginna ISFSI as part of its site-specific safe storage (SAFSTOR) decommissioning cost study, which was submitted to the NRC on November 20, 2009 (ADAMS Accession No. ML093340088).

Based on its analysis, the NRC staff has concluded that the applicants have complied with the regulations at 10 CFR 50.75(b) and (c) with respect to providing decommissioning financial assurance for Ginna⁵.

5.4 Conclusion on Decommissioning Funding Assurance

The proposed transfer of operating authority will not affect the current decommissioning funding arrangements previously reported for the facilities. According to the Application, the Owner-Licensees will remain responsible for providing decommissioning funding assurance for the facilities. Thus, no change in current funding practices will occur as a result of the transfers. The NRC staff has concluded, as of December 31, 2012, the Owner-Licensees are providing decommissioning funding assurance consistent with NRC requirements. The applicants will be required to submit DFS reports for the facilities prior to March 31, 2014, consistent with the requirements of 10 CFR 50.75 (f)(1).

6.0 TECHNICAL QUALIFICATIONS

The purpose for the technical evaluation is to ensure that the proposed corporate management is involved with, informed of, and dedicated to the safe operation of the plant; that sufficient, qualified technical resources will be provided to engage in activities associated with the operation of the plant; and to evaluate proposed changes to the operating organization as a result of the license transfer.

6.1 Management and Technical Support Organizations

The NRC staff reviewed the Application to determine the acceptability of the proposed corporate management and technical support organization. The NRC staff evaluated the Application using applicable acceptance criteria contained in SRP Section 13.1.1, "Management and Technical Support Organization."

The applicants stated that Exelon Generation "has all of the necessary technical qualifications to safely operate the facilities." On the license pages of the facilities, it is stated that "Exelon Generation is authorized to act for [the Owner-Licensees] and has exclusive responsibility and control over the physical possession, operation, and maintenance of the facility."

The applicants also stated that,

With the proposed license transfer of the facilities, the CENG entities will contract Exelon Generation to operate the facilities under a NOSA. The CENG entity will remain the owner of the Facilities, but will not have a functioning organization or staff. The current CENG corporate organization is planned to be absorbed into

⁵ On February 6, 2014, Exelon Corporation disclosed in an investor's meeting and a SEC 8K filing, the potential that multiple nuclear generation plants were unprofitable and may be retired. The NRC staff notes that under the provisions of 10 CFR 50.82(c), should the Owner-Licensees be required to shut down any unit prematurely, the collection period for any shortfall of decommissioning funds would be determined on a case-by-case basis, taking into account each owner's financial situation.

the Exelon Generation nuclear corporate organization. The Exelon Generation nuclear corporate organization consists of senior executives and support staff responsible for governance and oversight of the existing Exelon fleet. The organization includes Nuclear Oversight, Licensing and Regulatory Affairs, Engineering, Fuels, Outage Services and functional area managers in all the areas of plant operations. In addition, administrative and support functional leaders reside in the nuclear corporate organization, such as human resources, communications, IT, finance and procurement.

The Exelon Generation nuclear organization is governed by a Management Model based upon an overriding philosophy of an engaged management team that establishes and enforces high standards and clear accountabilities. The Management Model involves: disciplined processes to assure day-to-day safety and operating rigor; standard templates for outage planning, preparation and execution; consistent performance reporting, monitoring and metrics; effective human performance tools; and appropriate financial controls. The CENG facilities will transition to the Management Model after the proposed transfers. The nuclear corporate support technical functions, that currently provide the governance and oversight in the existing Exelon fleet, will provide [the] same to the CENG facilities.

The applicants indicated that the technical staff at the facilities will remain essentially unchanged, and as a result of Exelon Generation acquiring operating authority, "the overall technical resources available to the Facilities will be enhanced."

Based on the information provided in the Application, Exelon Generation has described that its organization for maintaining the existing technical qualifications for the facilities will be equivalent to CENG's management and technical support organization, for which the NRC staff is aware of no deficiencies. Accordingly, the NRC staff has concluded that the proposed Exelon Generation organization for managing and its means of providing technical support for the continued operation of the facilities under both normal and off-normal conditions are in accordance with SRP Section 13.1.1.

6.2 Operating Organization

The NRC staff reviewed the Application to determine the acceptability of Exelon Generation's operating organization and to evaluate proposed changes to the operating organizations, as a result of the license transfer. The initial operating organization was determined to be acceptable by the NRC staff's initial licensing review. Subsequent safety-related changes to the operating organization have been evaluated and were found acceptable. Therefore, the existing organization remains acceptable.

The NRC staff's review focused on evaluating any changes to the operating organizations proposed as a result of the transfer. The NRC staff evaluated the Application using the applicable acceptance criteria contained in SRP Sections 13.1.2 - 1.3, "Operating Organization."

The applicants stated that,

The plant staff at the facilities will remain essentially unchanged as a result of the license transfers, including senior managers and key operational and technical staff. The site organizations will be transitioned to the Exelon Nuclear

Management Model organization structure, which supports achieving and sustaining high levels of performance and safety. The transition will involve adaption of processes, programs and policies of the Exelon Nuclear Management Model and the alignment of the staff to support their safe and efficient execution. Except for realignment of administrative and support functions (such as IT, procurement and finance) to offsite corporate functional departments, the lines of authority and communication for site operations and technical staff will remain the same, reporting up through the Site Vice President. The Site Vice Presidents of each of the CENG-owned sites will continue to report to the CENG Chief Nuclear Officer (CNO), who will also be an executive of Exelon Generation after the license transfers.

The CENG CNO will report up through the Exelon Generation [CNO]. The Exelon Generation CNO will be the senior corporate officer with all the necessary authority and full responsibility for the safe and reliable operation of the Exelon Generation nuclear fleet, including the CENG-owned sites. Exelon Generation will interface with EDF [Inc.] through CENG Board interactions. These interactions will primarily be a function of the senior executives who will hold dual officer positions in Exelon and CENG, including the CENG Chief Executive Officer, [CNO], Chief Financial Officer, Secretary and Treasurer. The Exelon Generation staff organization(s) responsible for the technical support/plant staff day-to-day operation and maintenance of the facilities will have minimal interaction with EDF, i.e., EDF will not ordinarily interface with the onsite operating organization.

The applicants also stated that, "no physical changes will be made to the facilities, and there will be no adverse changes in day-to-day operations as a result of the proposed transfers."

The NRC staff finds that the transfer of licenses from CENG to Exelon Generation will essentially have no effect on the operating organizations and personnel now responsible for the operation and maintenance of the facilities. The NRC staff has concluded that the onsite organizations established to operate and maintain the Facilities under both normal and off-normal conditions are in accordance with SRP Sections 13.1.2 - 1.3.

6.3 Summary of Management, Technical Support, and Operating Organizations

The applicants have described Exelon Generation's corporate level management, its means of providing technical support to the plant staff, and the onsite organization for operation and maintenance of the facilities after the transfer of licensed operating authority from CENG to Exelon Generation. These measures have been reviewed and the NRC staff finds that the applicants have adequate resources to provide onsite and offsite technical support for the safe operation of the facilities under both normal and off-normal conditions. Therefore, the NRC staff has concluded that the applicants have acceptable management, technical support, and onsite organizations, and meet the requirements of 10 CFR 50.40 and 50.80. Accordingly, in light of the foregoing evaluation, the NRC staff has also concluded that Exelon Generation will be technically qualified to hold the operating authority under the licenses for the facilities.

7.0 ANTITRUST REVIEW

The AEA does not require or authorize antitrust reviews of post-operating license transfer applications. *Kansas Gas and Electric Co., et al.* (Wolf Creek Generating Station, Unit 1), CLI-99-19, 49 NRC 441 (1999). The Application here postdates the issuance of the operating licenses for the facilities under consideration in the SE and, therefore, no antitrust review is required or authorized. The NRC staff notes that there are no existing antitrust license conditions in the subject licenses. Accordingly, there are no antitrust-related issues to resolve with respect to the proposed conforming license amendments.

8.0 FOREIGN OWNERSHIP, CONTROL, OR DOMINATION

8.1 Background

Sections 103d and 104d of the AEA provide, in part, that no license may be issued to the following:

Any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issue of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

The NRC's regulation at 10 CFR 50.38, "Ineligibility of Certain Applicants," is the regulatory provision that implements this statute. The NRC staff evaluated the Application in a manner that is consistent with the guidance provided in the SRP, "Foreign Ownership, Control, or Domination of applicants for Reactor Licenses," dated June 1999, (hereafter referred to as the SRP on FOCD), to determine whether the applicant is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government (64 FR 52357-52359).

The NRC's position outlined in the SRP on FOCD states that "the foreign control prohibition should be given an orientation toward safeguarding the national defense and security." Further, the SRP on FOCD outlines how the effects of foreign ownership may be mitigated through implementation of a "negation action plan" to ensure that any foreign interest is effectively denied control or domination over the applicant.

8.2 Discussion

The applicants stated that the proposed transfer of operating authority does not change the ownership of the facilities or alter the basis for the NRC's prior approval of the indirect transfer resulting from Exelon Corporation's acquisition of CEG.

According to the Application, Exelon Corporation, as the ultimate parent company of Exelon Generation, is a publicly traded company, and its shares are widely held. Based on Schedule 13(d) filings with the SEC, the applicants stated that it is not aware of any alien, foreign corporation or foreign government that holds or may hold more than 5 percent of the securities of Exelon Corporation. Further, the applicants stated that the proposed transfer will remove operating authority from the current licensees, which are 49.99 percent indirectly owned by a foreign corporation, EDF Inc., and vest that authority with a U.S. company.

The Constellation Nuclear, LLC (CNL), as a direct subsidiary of Exelon Generation, will continue to be a parent company of CENG and will indirectly hold a 50.01 percent ownership interest in CENG. EDF Inc. will continue to have a 49.99 percent ownership interest in CENG and participate as a member in the CENG joint venture, subject to the negation action plan as described and approved in connection with the NRC's October 30, 2009, Orders approving EDF Inc.'s investment in CENG.

A list of the directors, officers, and executive personnel of Exelon Corporation, Exelon Generation, CENG, and holding companies were included in the Application.

The applicants stated that the proposed transfers will not result in adverse implications for FOCD. The applicants further stated that the existing FOCD negation measures for CENG, approved in the NRC's February 15, 2012, Orders granting the indirect transfer related to the merger between Exelon Corporation and CEG, will not be changed. The Application also included proposed revisions to the CENG Operating Agreement, which the NRC staff reviewed to ensure that negation action measures remain sufficient to negate FOCD. Key sections of the Operating Agreement pertaining to the FOCD review are as follows:

Section 7.3(c) of the proposed Operating Agreement provides that the Chairman of the Board of Directors shall have the casting (deciding) vote authority on any matter necessary to assure required U.S. control, including any matter relating to nuclear safety, security or reliability, which includes, but is not limited to, the implementation or compliance with NRC requirements, such as an NRC generic letter, bulletin, order, or confirmatory order. Thus, in the event of a deadlock on authorizing the expenditures by the CENG Board of Directors on matters related to safety, security and reliability (e.g., plant specific capital improvements), the matter would be subject to the Chairman's casting vote authority.

As provided in Section 7.3(d) of the proposed Operating Agreement, "the CEO shall have the power and authority to operate the Company [CENG] on a day-to-day basis." The Chairman of the CENG Board of Directors, who is appointed by CNL, the CEO, and the CNO, all of whom must be U.S. citizens, exercise ultimate control over nuclear safety, security, and reliability as needed to comply with the NRC's restrictions on FOCD.

Section 7.3(g) of the proposed Operating Agreement describes the duties of the Chief Financial Officer (CFO) and removes EDF Inc.'s previous right to designate the CFO.

Section 7.3(m) of the proposed Operating Agreement specifically provides that the Chairman, the CEO, and the CNO "shall have the responsibility and authority to ensure, and shall ensure, that the business and activities of the Company [CENG] and its Subsidiaries with respect to its Licensed Facilities are at all times conducted in a manner consistent with the protection of the public health and safety and common defense and security of the United States."

Section 7.5 of the CENG Operating Agreement requires the Board of Directors to appoint a Nuclear Advisory Committee (NAC) composed of U.S. citizens who are not officers or directors of CENG or EDF Inc., or CE Nuclear, LLC. The NAC is responsible for preparing a report and supporting documentation that will help determine as to whether additional measures should be taken to ensure that CENG is in compliance with U.S. laws and regulations regarding foreign domination or control of nuclear operations and that a decision of a foreign government could not adversely affect or interfere with the reliable and safe operation of any nuclear assets of CENG, its subsidiaries or affiliates.

8.2.1 Financial and Contractual Arrangements with Foreign Entities

Section 4.2 of the SRP on FOCD indicates that the NRC staff review information related to whether the applicant is indebted to foreign interests or has contractual arrangements that may affect FOCD. The NRC staff reviewed SEC filings and identified multiple financial or contractual agreements between EDF and the applicants. In its February 2012 10K SEC filing, CENG disclosed that in May 2011, CENG issued an unsecured revolving promissory note to borrow up to an aggregate principal amount of \$62.5 million from a subsidiary of CENG. The CENG also issued a promissory note to EDF on substantially identical terms, such that any request for borrowings by CENG must be submitted 50 percent to Exelon Generation and 50 percent to EDF. The unsecured promissory note matured on October 31, 2012, and all amounts due were paid in full as of that date. Beginning on January 1, 2015 and continuing to the end of the life of the respective facilities, Exelon Generation will purchase on a unit contingent basis 50.01 percent of the output of CENG's facilities, and EDF will purchase on a unit contingent basis 49.99 percent of the output.

Finally, Exelon Corporation indicated in a July 30, 2013, 8K filing with the SEC that Exelon Corporation and Exelon Generation and its subsidiaries entered into a Master Agreement with EDF Inc. and CENG and its subsidiaries. The Master Agreement describes a series of additional agreements that will occur following the closing of the transfer of operating authority to Exelon Generation. The filing indicates that at the closing, Exelon Generation and CENG and its subsidiaries will execute a NOSA, pursuant to which Exelon Generation will operate the CENG nuclear generation fleet owned by the CENG subsidiaries and provide corporate and administrative services for the remaining life of the CENG nuclear plants as if they were a part of the Exelon Generation nuclear fleet, subject to EDFI's rights as a member of CENG. CENG will reimburse Exelon Generation for its direct and allocated costs for such services.

Exelon Generation is also providing financial incentives to EDFI related to the Master Agreement. According to the July 30, 2013 8K filing, Exelon Generation will make a \$400 million loan to CENG bearing interest at 5.25 percent per annum, payable out of specified available cash flows of CENG. Immediately following receipt of the proceeds of such loan, CENG will make a \$400 million special distribution to EDFI. EDFI's long term participation in the joint venture, and as a result, the licensee's ability to rely on additional sources of funds may change in the event that EDFI exercises its put agreement.

8.2.2 NAC Annual Report

As part of its evaluation, the NRC staff reviewed the 2013 Annual Report of the CENG independent NAC. The annual report provides an overview of the NAC activities and observations related to FOCD issues and the status of the Owner-Licensee's ability to respond to such issues. The NAC reviewed certain CENG practices and procedures it believed might be subject to greater FOCD legal or regulatory risk.

1. The NAC reviewed post-merger CENG operations, [

]
2. The NAC reviewed the transfer of the CENG Fleet Operations, specifically the plan of integration of the CENG fleet and roles of the parties.

3. The NAC reviewed CENG Procurement Programs, specifically the migration to Exelon Corporation procedures.

4. [

]

The NAC stated that it [

]

Finally, the NAC concluded that it had not identified any significant FOCD issues that required the NAC to report such matters to the NRC or other government agency.

8.3 Conclusion on Foreign Ownership, Control, or Domination

The Application stated that the transfers will not result in CENG or the Owner-Licensees being owned, controlled, or dominated by an alien, foreign corporation, or foreign government within the meaning of Sections 103d or 104d of the AEA or the licensee eligibility requirements found in the regulations at 10 CFR 50.38. However, in considering the information included in the December 9, 2013, NAC report, the continued financial and contractual arrangements between Exelon Corporation, CENG and EDF Inc., specifically the promissory note, loan, and the rights afforded EDF Inc. in the Operating Agreement, the NRC staff has concluded that in order to ensure that CENG and the Owner-Licensees will not become owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, the Orders approving the license transfers to Exelon Generation and the licenses will contain and the licensees will be subject to the same conditions contained in the previous transfer orders⁶:

1. At least half the members of the CENG Board of Directors must be U.S. citizens.
2. The CEO, CNO, and Chairman of the Board of Directors of CENG must be U.S. citizens. These individuals shall have the responsibility and exclusive authority to ensure and shall ensure that the business and activities of CENG with respect to the licenses for Calvert Cliffs 1 and 2, Calvert Cliffs ISFSI, Nine Mile Point 1 and 2, and Ginna are at all times conducted in a manner consistent with the public health and safety and common defense and security of the United States.
3. The CENG will retain its NAC composed of U.S. citizens who are not officers, directors, or employees of CENG, EDF Inc., or Constellation Nuclear, LLC. The

⁶ Orders approving corporate merger between Exelon Corporation and CEG, dated February 15, 2012 (ADAMS Accession No. ML113536381)

NAC will report to and provide transparency to the NRC and other U.S. governmental agencies regarding foreign ownership and control of nuclear operations.

4. The NAC shall prepare an annual report regarding the status of foreign ownership, control, or domination of the licensed activities of power reactors under the control, in whole or part, of CENG. The NAC report shall be submitted to the NRC within 30 days of completion, or by January 31 of each year (whichever occurs first). No action shall be taken by CENG or any entity to cause Constellation Nuclear, LLC, Exelon Generation, or their parent companies, subsidiaries or successors to modify the NAC report before submittal to the NRC. The NAC report shall be made available to the public, with the potential exception of information that meets the requirements for withholding such information from public disclosure under the regulations of 10 CFR 2.390, "Public Inspections, Exemptions, Requests for Withholding."

The NRC staff believes that the above facts, in addition to the conditions of the Orders, are consistent with making a non-inimical finding with respect to protecting the common defense and security of the United States. In light of the aforementioned license conditions, the NRC staff does not know or have reason to believe that CENG or the Owner-Licensees will be owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government.

9.0 NUCLEAR INSURANCE AND INDEMNITY

Licensees are required to maintain nuclear property damage insurance under 10 CFR 50.54(w) and nuclear energy liability insurance is required under Section 1770 of the AEA and 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements." Furthermore, licensees must demonstrate their ability to pay their shares of the annual retrospective premium in compliance with 10 CFR 140.21, Licensee guarantees of payment of deferred premiums ."

The applicants request that the Price-Anderson indemnities be amended to include Exelon Generation as a licensee for the facilities and to name Exelon Generation as an indemnified entity and further state that Exelon Generation and the Owner-Licensees will maintain all required nuclear property damage insurance and nuclear energy liability insurance.

The NRC has no reason to believe that the proposed transfer will affect the ability of CENG to meet its financial obligations for its share of the retrospective premiums for its licensees.

Therefore, in consideration of the foregoing, the NRC staff has concluded that notwithstanding the transfer of operating authority, the licensees will continue to be able to provide required nuclear insurance and indemnity coverage and to meet its nuclear insurance obligations.

To account for requested transfer of operating authority, the Order approving the proposed license transfers should be subject to the following condition:

Before completion of the direct transfer of the Calvert Cliffs 1 and 2, Nine Mile Point 1 and 2, and Ginna licenses, Exelon Generation shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that the licensees have obtained the appropriate amount of primary and secondary insurance, and have complied with the requirements of 10 CFR Part 140 of the Commission's regulations.

10.0 CONFORMING AMENDMENTS

As previously stated, the applicants requested approval of conforming amendments to the facilities' operating licenses and materials license. The amendments add references to Exelon Generation, as appropriate, to reflect the proposed transfers of operating authority. The applicants stated that there will be no physical changes to the Facilities. The proposed changes to the licenses are indicated in the conforming amendments in Enclosure 2 to the cover letter forwarding the NRC staff's Orders approving the subject transfer. The amendments involve no safety questions and are administrative in nature. Accordingly, the proposed amendments are acceptable.

Therefore, the Commission has concluded, based on the considerations discussed above, that: (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) there is reasonable assurance that such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

11.0 STATE CONSULTATION

In accordance with the Commission's regulations, the Maryland and New York State officials were notified of the proposed issuance of the amendments. The State officials had no comment.

12.0 ENVIRONMENTAL CONSIDERATION

The subject application is for approval of transfers of licensed operating authority and conforming amendments. Accordingly, the actions involved meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(21). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with approval of the application.

13.0 CONCLUSION

In view of the foregoing, the NRC staff finds that, subject to the conditions discussed herein, Exelon Generation is qualified to hold the operating authority of Calvert Cliffs 1 and 2, Nine Mile Point 1 and 2, and Ginna under the 10 CFR Part 50 licenses, and to hold the operating authority of the Calvert Cliffs ISFSI under the 10 CFR Part 72 license, and that the direct transfer of the licensed authority is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Principal Contributors: A. Simmons
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N. Morgan

Date: March 25, 2014

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M. Korsnick and B. Wright

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Enclosures 3 and 4 contain the non-proprietary and proprietary versions, respectively, of the NRC staff's safety evaluation (SE) related to the preceding actions. The non-proprietary version of the SE will be placed in the NRC public document room and added to the Agencywide Documents Access and Management System's Publicly Available Records System Library.

The Order has been forwarded to the Office of the Federal Register for publication.

Sincerely,

Nadiyah S. Morgan, Project Manager
Plant Licensing Branch I-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-244

Enclosures:

1. Order
2. Conforming Amendment to DPR-18
3. SE (Non-proprietary)
4. SE (Proprietary)

cc w/encls:

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