



September 15, 2014

Via Electronic Filing

Hon. Kathleen H. Burgess, Secretary
New York Department of Public Service
Three Empire State Plaza, 19th Floor
Albany, NY 12223-1350

**Re: Case 14-E-0270 – Petition for Initiation of Proceeding to
Examine Proposal for Continued Operation of R.E. Ginna Nuclear
Power Plant**

Dear Secretary Burgess:

On July 11, 2014, Exelon Corporation (“Exelon”), Constellation Energy Nuclear Group, LLC (“CENG”) and R.E. Ginna Nuclear Power Plant, LLC (“GNPP” and, collectively with Exelon and CENG, the “Petitioners”) filed with the New York Public Service Commission (“Commission”) a “Petition for Initiation of Proceeding to Examine Proposal for Continued Operation of R.E. Ginna Nuclear Power Plant” (the “Petition”), seeking an order from the Commission: (a) finding that the Additional Reliability Study commissioned by the Petitioners and submitted with the Petition establishes a need for the Ginna Facility’s continued operation; (b) directing Rochester Gas & Electric Corporation (“RG&E”) and GNPP to negotiate and file by December 1, 2014, a Reliability Support Services Agreement “of an appropriate duration and with a commencement date of no earlier than January 11, 2015”; and (c) finding that Petitioners’ communications with individual Commissioners, Staff, RG&E and the NYISO, including the filing of the Petition and the Additional Reliability Study, “constitute full and sufficient notice to the Commission to satisfy

the advance notice requirements with respect to consideration of retirement generally and the Ginna Facility specifically.” (Petition at 8-10.)

NRG Power Marketing LLC, GenOn Energy Management, LLC, Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Dunkirk Power LLC, Huntley Power LLC, NRG Bowline LLC and Oswego Harbor Power LLC (collectively, the “NRG Companies”) hereby provide comments urging the Commission to reject the Petition and direct the Petitioners, to the extent they wish to pursue retirement of the Ginna facility, to file appropriate written notice with the Secretary of the Commission as required pursuant to the Commission’s procedures established in Case No. 05-E-0889.¹ Alternatively, to the extent the Commission deems the Petition to constitute adequate notice pursuant to the requirements of the Retirement Notice Order, the Commission must carry out its full obligations under those procedures, in the interest of transparency, cost-effectiveness and customer protection. Specifically, the Commission should require that the NYISO and RG&E conduct a full evaluation of the reliability impacts of a retirement of the Ginna facility, in both the short- and long-term, and should direct those parties to conduct a solicitation and evaluation of alternatives to resolve any identified reliability needs.

1. The Petition Does Not Satisfy the Notice Requirements Pursuant to Commission Policy and Procedure

Petitioners are explicit that the Petition does not comply with Commission requirements for notice, in asking for the Commission to determine that the various meetings, conversations and communications, including the filing of the Petition, “constitute ... notice.” There is no basis for taking such a course other than the mere convenience of the Petitioners. The Commission should not abide this effort to cut corners on well-established procedures that have worked adequately over the past nine years. These procedures provide all parties to the New York electricity markets with notice and information about potential retirements, and importantly, require the NYISO and the affected transmission owner(s) to perform a full evaluation of both the near-term and longer-term reliability impacts of the potential

¹ Order Adopting Notice Requirements for Generation Unit Retirements, Case No. 05-E-0889, December 20, 2005 (the “Retirement Notice Order”)

retirement. While the Petition has garnered significant attention, there is much more to the ‘transparency’ requirement of the Commission’s procedures.

First, one of the primary vehicles for communicating the potential for generator retirements is the dedicated section of the NYISO website.² This consolidated listing is extremely valuable in ensuring that all market participants and stakeholders have consistent and timely information with respect to potential changes in the New York generation supply, and can plan accordingly. To date, no notice with respect to the Ginna facility has been posted on the NYISO website.

Second, proper notice under the Retirement Notice Order would then prompt a request from the Commission to the NYISO to perform a comprehensive reliability analysis of the impact if the subject generator were to retire. Such an analysis is fundamentally different from the Additional Reliability Study that Petitioners commissioned the NYISO and RG&E to perform. In that study, Petitioners specified all of the assumptions and time frame for the analysis. Those assumptions, and the time horizon for assessing reliability impacts, are not necessarily the same ones that NYISO and RG&E would choose in a fully independent, comprehensive study requested by the Commission.

Third, the role of the NYISO in evaluating the impacts of potential generation retirements is in soliciting and evaluating alternative solutions to any identified reliability needs. Parties that may wish to propose such alternatives need a reliable signal that such a request is pending, and the NYISO website notification of retirement notices is just such a signal. Without that notice, for example while the current Petition is awaiting a Commission ruling about whether it is, in fact, a notice of retirement, parties are hamstrung in putting significant effort into developing alternatives to meet potential reliability needs in the Rochester area.

² All communications with NYISO regarding potential generator retirements or mothballs can be accessed at: http://www.nyiso.com/public/markets_operations/services/planning/documents/index.jsp?docs=planned-generation-retirements/planned-retirement-notices

The Commission should not sanction Petitioners' effort to short-cut the notice, study and alternatives process required under the Commission's procedures. The Commission should reject the Petition and direct Petitioners, to the extent they wish to proceed with retirement of the Ginna facility, to file a written notice with the Secretary of the Commission pursuant the procedures established in the Retirement Notice Order.

2. The Full Extent of the Retirement Notice Order Procedures Must Be Followed

If, notwithstanding the deficiencies in the approach taken by Petitioners, the Commission determines that the Petition and the related communications 'constitute ... notice' pursuant to the Retirement Notice Order requirements, the Commission's order on the Petition should initiate the other steps established in the Retirement Notice Order. Specifically, the Commission should provide notice to the NYISO and request NYISO and RG&E to perform a comprehensive reliability analysis, using their own planning assumptions and with a ten-year horizon as well as intermediate timeframes, to determine the full extent of any reliability needs precipitated by the retirement of the Ginna facility.

Following the public release of that study, the NYISO should be required to solicit alternative solutions to any identified reliability needs. Without such a solicitation, there can be no assurance that a reliability agreement negotiated with GNPP is in the best interests of customers. It is therefore premature for the Commission to consider Petitioners' request that RG&E be directed to negotiate such an agreement at this time.

3. Conclusion

The NRG Companies appreciate the opportunity to provide comments in this proceeding and urge the Commission to reject the Petition and direct Petitioners, to the extent they wish to pursue retirement of the Ginna facility, to provide proper written notice of their intent to the Secretary of the Commission pursuant to the procedures established in the Retirement Notice Order. Alternatively, if the Commission is nonetheless persuaded that the Petition 'constitutes ... notice' pursuant to the Retirement Notice Order procedures, the Commission should initiate

a request to the NYISO to perform a full reliability impact analysis followed by a solicitation of alternative solutions to address any reliability needs.

Respectfully Submitted,

/s/ Peter Fuller

Peter Fuller
Senior Director, Market & Regulatory Affairs
NRG Energy, Inc.

On behalf of the NRG Companies

cc: Active Parties (via-email)