

SAFETY EVALUATION BY THE OFFICE OF NUCLEAR REACTOR REGULATION

TRANSFER OF RENEWED OPERATING LICENSES FOR

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

DOCKET NOS. 50-317 & 50-318

AND MATERIALS LICENSE FOR

CALVERT CLIFFS INDEPENDENT SPENT FUEL STORAGE INSTALLATION

DOCKET NO. 72-8

1.0 INTRODUCTION

Pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and Section 50.80 of Title 10 of the Code of Federal Regulations (10 CFR 50.80), Baltimore Gas and Electric Company (BGE), by application dated February 29, 2000, as supplemented on April 7, April 27, May 2, May 19, and June 20, 2000, (collectively hereafter the application) requested that the Nuclear Regulatory Commission (NRC) consent to a transfer of Renewed Facility Operating Licenses Nos. DPR-53 and DPR-69 for Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 (Calvert Cliffs or CCNPP), to a new affiliated company described below. In addition, pursuant to 10 CFR 72.50, BGE requested the NRC's consent to a similar transfer of Materials License No. SNM-2505 for the Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI). The application also requested the approval of conforming license amendments to reflect the proposed transfer. The supplemental information did not expand the scope of the application as originally noticed in the *Federal Register*.

2.0 BACKGROUND

The transfer request relates to a proposed corporate restructuring of BGE and is being submitted to comply with provisions of Maryland's Electric Customer Choice and Competition Act of 1999 (Act). Under the proposed restructuring, Constellation Energy Group, Inc. (Constellation Energy), the parent company of BGE, will form another wholly-owned subsidiary, Constellation Nuclear, LLC (Constellation Nuclear or "CN"). BGE will transfer ownership of and the licenses for Calvert Cliffs and the ISFSI to its own subsidiary, Calvert Cliffs Nuclear Power Plant, Inc. (Company). BGE will then transfer the ownership of Company to Constellation Energy through a stock transfer.

Constellation Energy will then transfer the ownership of all of the stock of Company to Constellation Nuclear. The final result will be that Company, as directly owned by Constellation Nuclear, and indirectly owned by Constellation Energy, will be the owner and licensee of Calvert Cliffs and the ISFSI. The transfer of the facilities by BGE to Company, the transfer of stock in

Company by BGE to Constellation Energy, and the subsequent transfer of such stock to Constellation Nuclear will occur on the same day.

Following the proposed corporate restructuring, Constellation Energy and Company will be corporations organized and existing under the laws of the State of Maryland. Constellation Nuclear will be a Maryland limited liability company. The applicant anticipates that Constellation Nuclear will be converted to a Maryland corporation within 12 months of the transfer. All of the current directors and principal officers of Constellation Energy and Constellation Nuclear are, and all the directors and principal officers of Company will be, citizens of the United States.

### 3.0 FINANCIAL QUALIFICATIONS ANALYSIS

Pursuant to 10 CFR 50.33(f), an electric utility as defined in 10 CFR 50.2, is not required to demonstrate its financial qualifications. Company will not meet the definition of an electric utility. Section 50.2 of 10 CFR states that an electric utility is “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.” Company will sell electricity to its utility affiliates and will market electricity pursuant to rate tariffs approved by the Federal Energy Regulatory Commission.

As both a newly formed entity and a non-electric utility applying to own and to operate nuclear power plants, Company is subject to a more detailed financial qualifications review by the NRC than an established electric utility. Specifically, Company must meet the requirements of 10 CFR 50.33(f) by providing information which shows the following:

- (1) As a non-electric utility applicant for operating licenses, it possesses or has reasonable assurance of obtaining the funds necessary to cover estimated operating costs for the period of the licenses. It must submit estimated total annual operating costs for the first 5 years of facility operations and indicate the source of funds to cover these costs.
- (2) As a newly formed entity organized primarily for the purpose of operating a nuclear power plant, it must show: (a) the legal and financial relationships it has or proposes to have with its stockholders or owners; (b) its financial ability to meet any contractual obligation to the entity which they have incurred or propose to incur; and (c) any information considered necessary by the Commission to enable it to determine the applicant’s financial qualification.

In addition, 10 CFR 50.33(k)(1) requires that Company must provide information described in 10 CFR 50.75 indicating reasonable assurance that funds will be available to decommission the facilities. Company’s proposals for decommissioning funding assurances are discussed in Section 4.0 of this evaluation.

The NRC staff finds that Company meets the financial qualifications requirements for a non-electric utility pursuant to 10 CFR 50.33(f).

Company will be a wholly owned subsidiary of Constellation Nuclear, which itself will be a wholly owned subsidiary of Constellation Energy. Constellation Nuclear is a holding company which was formed in December 1999. Constellation Energy owns and operates energy-services businesses throughout the United States and Latin America. It offers wholesale power marketing, risk management, power plant development, power generation, transmission and distribution, and other energy-related products and services to residential, commercial, and

industrial customers. Since Constellation Energy became the holding company for BGE on April 30, 1999, it has not yet filed an annual report.

The applicant states that Company has reasonable assurance of obtaining the funds necessary to cover estimated total annual operating costs. Pursuant to the draft agreements attached as Exhibits B-1 and B-2 of the February 29, 2000, initial application, Constellation Energy will provide Company with any funds necessary for Company to meet its expenses and obligations to maintain and safely operate Calvert Cliffs and its associated ISFSI. The agreements provide for a cash pool arrangement whereby Company will have ready access to cash.

Constellation Energy operates a cash pool for all of its subsidiaries except BGE. Thus, Company will be a member of the cash pool. Each day, each member of the cash pool provides Constellation Energy with its cash position for that day. Each day, each member also transfers to the pool any excess cash which is invested unless another member of the pool needs it. On any given day, if members need more cash than is available from the pool, Constellation Energy sells commercial paper to the public markets. Money from the sale of commercial paper is wired into the member's account later the same day. When a member borrows money from the pool, the amount is recorded on a master demand note (a draft has been attached as Exhibit B-2 of the February 29, 2000, application), and is payable with interest to Constellation Energy upon 24-hour demand. The cash pool and Constellation Energy's commercial paper program are extremely liquid and can provide cash to meet operating and maintenance (O&M) expenses usually on the same day that such needs are identified. Currently, Constellation Energy has a [ ] commercial paper program. Constellation Energy currently has credit agreements and committed bank lines of credit totaling [ ] to support its commercial paper program. Constellation Energy's commercial paper balances averaged [ ] per month since the cash pool was created in July 1999.

In addition, the application states that Constellation Energy will provide an intercompany credit agreement whereby it will provide any cash needed by Company that is not available from the cash pool to protect the public health and safety. BGE will also enter into an agreement (Competitive Transition Charge Collection Agent Agreement) whereby BGE agrees to act as an agent for Company for purposes of collection of charges to electric customers for reimbursement of stranded costs. A draft is attached as Exhibit B-3 of the February 29, 2000, initial application.

Company has reached an agreement in principle with Constellation Power Source (CPS), another wholly owned affiliate of Constellation Energy, for the marketing and wholesale of all of Calvert Cliffs' net output of power. Company will receive payment for Calvert Cliffs power from CPS through three primary revenue components. The term of the contract will cover a period of 3 years, estimated to begin July 1, 2000.

The following projected income statement reflects the revenue and operations for the CCNPP, and the operations and maintenance for the ISFSI.

**CALVERT CLIFFS NUCLEAR POWER PLANT, INC. (COMPANY)  
PROJECTED REVENUE per MWhr**

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
\$/MWhr	[    ]	[    ]	[    ]	[    ]	[    ]

**CALVERT CLIFFS NUCLEAR POWER PLANT, INC. (COMPANY)  
PROJECTED INCOME STATEMENT  
(\$000)**

	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
<b>Revenues:</b>					
Fixed Payment	[            ]	[            ]	[            ]	[            ]	[            ]
Variable Payment	[            ]	[            ]	[            ]	[            ]	[            ]
Balance Account	[            ]	[            ]	[            ]	[            ]	[            ]
Ancillary Services	[            ]	[            ]	[            ]	[            ]	[            ]
Comp.Trans.Chrg.	[            ]	[            ]	[            ]	[            ]	[            ]
Decommissioning	[            ]	[            ]	[            ]	[            ]	[            ]
Non-Op Rev.	[            ]	[            ]	[            ]	[            ]	[            ]
<b>Total:</b>					
<b>Expenses:</b>					
O & M	[            ]	[            ]	[            ]	[            ]	[            ]
PF&E	[            ]	[            ]	[            ]	[            ]	[            ]
Depr. & Amort	[            ]	[            ]	[            ]	[            ]	[            ]
Other Taxes	[            ]	[            ]	[            ]	[            ]	[            ]
<b>Total:</b>	[            ]	[            ]	[            ]	[            ]	[            ]
<b>Income before interest &amp; taxes</b>	[            ]	[            ]	[            ]	[            ]	[            ]
<b>(Net) Interest Expense:</b>	[            ]	[            ]	[            ]	[            ]	[            ]
<b>Taxes:</b>	[            ]	[            ]	[            ]	[            ]	[            ]
<b>Net Income:</b>	[            ]	[            ]	[            ]	[            ]	[            ]

The first revenue component (Fixed Payment) will be a fixed and levelized monthly payment for energy and capacity, regardless of output. This fixed levelized monthly payment is expected to equate to approximately 65 percent of annual revenues received from CPS under the proposed power purchase agreement. The applicant believes that this fixed and levelized revenue component will also serve to stabilize Company's monthly financial performance and cash flow position, despite potentially volatile changes in daily and hourly energy market prices.

The second revenue component (Variable Payment) encompasses certain variable production costs, including nuclear fuel. This revenue component will be paid for every megawatt hour of energy generated and is currently estimated to represent approximately [            ] million per year of additional revenue for Company. This revenue component will vary from month to month, depending on the output generated in a given month.

The third revenue component (Balance Account) will be a performance incentive payment provided to Company on an annual basis in the event that Calvert Cliffs performs better than an availability target. The performance incentive payment will be determined from a Balance Account which accumulates changes in expected performance over the entire year. The Balance Account will use a mutually determined and specified availability target for Calvert Cliffs. In its capacity as power marketer and risk management provider, CPS will bear all costs related to [ ] of the additional power costs in the Balance Account arising from less than expected performance. Company will absorb any additional power costs in the Balance Account beyond [ ].

Company will also receive another smaller revenue component (Ancillary Services), related to approximately [ ] of projected additional services revenue received through the Pennsylvania-New Jersey-Maryland Interconnection Tariff for reactive supply and voltage control.

Finally, Company will receive annual revenue from BGE related to a [ ] share of all Competitive Transition Charges collected from BGE retail customers, beginning in July 2000. Company currently projects to receive between [ ] and [ ] annually for Competitive Transition Charges during each 12-month period over the next 5 years. The first 12-month period is anticipated to begin in July 2000.

The application states that the Competitive Transition Charge annual revenues received from BGE is [ ], which, when combined with the power purchase agreement revenue received from CPS for variable expenses, will provide approximately [ ] of aggregate annual revenue for Company (excluding any additional fixed revenue component received from CPS). Nevertheless, because the final agreement has not yet been completed, the applicant has chosen to use the lower estimated Competitive Transition Charge for this analysis.

The staff found that Company's projection of operating expenses is consistent with the aggregate history of the units involved in the transfer. However, the staff believes that one line item required more extensive review: projected revenues from 2001 to 2005 of the projected income statements. Projected revenues are the product of expected megawatt-hour sales and of Company's market price assumptions as stated in the supporting schedules of the projected income statements. Projected revenues and net income are adequate to cover expected Calvert Cliffs and ISFSI expenses and to provide Company's owner with favorable returns on its expected investment in the facility. However, in a competitive market, prices, revenue, and net income levels could be significantly lower than anticipated by Company during some portion(s) of the 5-year projection period and could result in less funding available for Calvert Cliffs and ISFSI operations.

The staff's independent analysis focused on the sensitivity of the Company revenue forecasts to lower market prices for the purpose of establishing a projected market price "floor" below which Company would begin to have difficulty covering its Calvert Cliffs and ISFSI operating expenses by relying on Calvert Cliffs' revenues. This factor was analyzed to determine the average annual simple growth rate for the market price, which would produce virtually zero net income (or a break-even level) over the period from 2001 to 2005, and the growth rate was compared to the higher average annual growth rate in the market prices in Company's forecast. If Company was to experience this lower (or floor) level of prices for an extended period, Company or its owner might decide to continue operating Calvert Cliffs without profits or, at a certain point, to cease Calvert Cliffs' operations permanently.

The base market price in the Company forecast is [ ].

The staff assessed the likelihood that these various growth (or decreased) rates may occur for the forecast period 2001-2005. Forecasts of electric rates in competitive markets are subject to many factors that make such predictions speculative; however, the reasonableness of various growth or decreased rates may be assessed by considering various factors that would provide an indication of future electricity prices. For example, recent trends in electricity prices can provide inferences on price performance in the more competitive environment expected in the electric power industry.

Company expects to be selling power primarily at market-based prices after the year 2003, and these prices will be a mix of competitively determined retail and wholesale prices. Also, trends in retail and wholesale electricity prices vary from one region to another, so Company's prices within its market area may not follow national trends. The North American Electric Reliability Council (NERC) projects that capacity margins will decrease in the Mid-Atlantic Area Council (MAAC) from 17.1 percent to 5.1 percent during the 1998-2007 time frame. (From NERC's Reliability Assessment 1998-2007, October 1998, page 11.)

After reviewing several forecasts of United States electricity prices and other relative information (such as a forecast of regional capacity margins), the staff concludes that attempting to forecast the growth rate, or even the direction of change, for market-based prices in the Calvert Cliffs' market area is too speculative to be useful for contingency analysis. Nevertheless, the staff concludes from its independent analysis that even if prices for Calvert Cliffs' power were to change at an average annual rate much lower than that anticipated by Company or even be reduced substantially, it does not preclude Company from operating and maintaining Calvert Cliffs and the ISFSI in a manner that would protect the public health and safety.

The staff finds that Company has fulfilled the requirements of 10 CFR 50.33(f) to provide information that it has reasonable assurance of having the financial resources to maintain and operate Calvert Cliffs as a non-electric utility and as a newly formed entity.

The financial information required of an applicant to demonstrate its qualifications to maintain and operate an ISFSI is set out in 10 CFR 72.22(e). The information which is the subject of 10 CFR 72.22(e)(1) is not needed because the ISFSI has already been constructed and the information requested by 10 CFR 72.22(e)(3) is addressed in the decommissioning funding discussion that follows. The remaining item for which an applicant must demonstrate financial qualifications is the "estimated operating costs over the planned life of the ISFSI" (10 CFR 72.22(e)(2)). These costs were factored into Company's statements. The basis for concluding Company will have the funds necessary to safely operate Calvert Cliffs under 10 CFR 50.33 also provides reasonable assurance that Company will have sufficient funds to cover the operating costs of the ISFSI over its planned life.

#### 4.0 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.

Section 50.33(k) of 10 CFR requires that an application for an operating license for a utilization facility contain information indicating how reasonable assurance will be provided that funds will be available to decommission the facility.

BGE has filed a decommissioning report with the NRC under 10 CFR 50.75 and is providing financial assurance for decommissioning Calvert Cliffs through an external sinking funds (decommissioning trusts) in which deposits are made at least annually. With acceptable tax treatment (the applicant has received Internal Revenue Service clarification on the tax status of decommissioning trusts transfers), and upon the license transfers, BGE will transfer those decommissioning trusts to Company, and Company will be responsible for the decommissioning liabilities associated with Calvert Cliffs. After the transfers, BGE will continue to collect decommissioning costs for Calvert Cliffs from BGE's electric customers through BGE's delivery service charges, pursuant to Section 22 of the Restructuring Order signed by BGE pursuant to the Act and approved by the Maryland Public Service Commission on November 10, 1999. A copy of that Order was attached to the February 29, 2000, initial application as Exhibit C-1. BGE will transfer to Company the funds to cover decommissioning costs collected for Calvert Cliffs pursuant to a Decommissioning Funds Collection Agent Agreement. A draft of the agreement is attached to the February 29, 2000, initial application as Exhibit C-2. The staff concludes that, given the intercompany agreements between BGE and Company that obligate such payments, Company is providing decommissioning funding assurance in the form of external sinking funds tied to a non-bypassable charge pursuant to 10 CFR 50.75(e)(ii)(B).

However, in light of Company being an unregulated utility not subject to traditional State controls on decommissioning funding, the following conditions must be incorporated as conditions of approval, as well as license conditions, essentially as follows:

The decommissioning trust agreement for Calvert Cliffs at the time the license transfers are effected and thereafter, are subject to the following:

- (a) The decommissioning trust agreement must be in a form acceptable to the NRC.
- (b) With respect to the decommissioning trust funds, investments in the securities or other obligations of Constellation Energy or its affiliates, successors, or assigns shall be prohibited. Except for investments tied to market indexes or other non-nuclear-sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
- (c) The decommissioning trust agreement must provide that no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the NRC 30-days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.
- (d) The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30-days prior written notification to the Director, Office of Nuclear Reactor Regulation.
- (e) The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments

made in the trusts shall adhere to a “prudent investor” standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission’s regulations.

Other prerequisites that must be incorporated as conditions of approval as well as license conditions are that the balance of the decommissioning trust funds immediately prior to the transfer will be, at a minimum, the beginning balance of decommissioning trust funds after the transfer, and that the contracts under which the funds for decommissioning will be provided through non-bypassable charges will be executed and maintained. The following language is appropriate:

Company shall provide decommissioning funding assurance, to be held in decommissioning trusts for Calvert Cliffs upon the transfer of the licenses to Company, in an amount equal to or greater than the balance in the Calvert Cliffs decommissioning trusts immediately prior to the transfer. In addition, Company shall ensure that all contractual arrangements referred to in the application to obtain necessary decommissioning funds for Calvert Cliffs through a non-bypassable charge are executed and will be maintained until the decommissioning trusts are fully funded, or shall ensure that other mechanisms that provide equivalent assurance of decommissioning funding in accordance with the Commission’s regulations are maintained.

In addition, Company shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance or consistent with the application, the requirements of the Order approving the transfer, and this safety evaluation.

Based on the above, the staff finds Company will provide reasonable assurance of decommissioning funding.

## 5.0 MANAGEMENT OF OPERATIONS AND TECHNICAL QUALIFICATIONS

### 5.1 Basis and Guidance for the Evaluation

The staff used the following regulations and guidance to complete its evaluation: 10 CFR 50.40(b), “Common Standards;” 10 CFR 50.80, “Transfer of licenses;” 10 CFR 72.50, “Transfer of License;” the Standard Review Plan (SRP) NUREG-0800, Chapter 13, “Conduct of Operations;” Section 13.1.1., “Management and Technical Organization;” Section 13.1.2-13.1.3, “Operating Organization;” and ANSI/ANS 18.1-1971, “Selection and Training of Nuclear Power Plant Personnel,” as endorsed by Regulatory Guide 1.8, Revision 2, April 1987, “Qualification and Training of Personnel for Nuclear Power Plants.”

### 5.2 Purpose of the Evaluation

The purpose of this evaluation is to ensure that the proposed corporate management will be involved with, informed of, and dedicated to the safe operation of the plant and the ISFSI and that sufficient, qualified technical resources will be provided to support safe plant and ISFSI operation and maintenance. In addition, changes to the plant and ISFSI operating organizations or personnel qualifications that may occur as a result of the license transfers are also evaluated.

### 5.3 Evaluation: Management and Technical Support Organization

Using the Basis and Guidance for the Evaluation stated at the beginning of this section, the staff reviewed the applicant’s submittal to determine the acceptability of the proposed transferee’s corporate management and technical support organization for the proposed

transfer. The staff evaluated the applicant's submittal using the applicable acceptance criteria contained in SRP, Chapter 13, "Conduct of Operations," Section 13.1.1, "Management and Technical Support Organization."

In its February 29, 2000, submittal, the applicant indicated that,

These proposed changes do not involve a request for any changes in the design or operation of either CCNPP or the ISFSI, nor any change in the terms and conditions of the existing licenses or Technical Specifications. The only proposed amendments to the existing licenses and the Technical Specifications are administrative and merely reflect [the transfer]. The Company will be technically and financially qualified to hold the Operating Licenses and the Materials License.

In response to staff questions, in a subsequent submittal dated April 7, 2000, the applicant provided pre- and post-reorganization charts for Constellation Energy. In response to a telephone conference call on April 14, 2000, the applicant provided an additional submittal dated May 2, 2000, stating that the Chief Nuclear Officer (CNO) for the Company will also be the President, Chairman, and Chief Executive Officer (CEO) of the Company and the president and CEO of Constellation Nuclear. Upon the planned restructuring, the CNO would relinquish his BGE title and responsibilities and "concentrate solely on all nuclear activities..." The applicant further stated that the functions and responsibilities of the CNO would remain the same as those for BGE before the transfer/restructuring.

The staff finds the post-reorganization management and support structure for Calvert Cliffs, as proposed by the applicant, to be acceptable.

Based on the foregoing information, the applicant is proposing an organization responsible for managing and providing technical support to the plant and the ISFSI that will meet the current qualifications of the BGE management and technical support organization, of which the staff is aware of no deficiencies. Accordingly, the staff concludes that the proposed organizations are satisfactory for managing and providing off-site technical support for the continued operation of the plant and ISFSI under both normal and off-normal conditions after the transfer of operating authority.

#### Evaluation: Operating Organization

Using the Basis and Guidance for the Evaluation stated at the beginning of this section, the staff reviewed the applicant's submittal to determine the acceptability of the proposed operating organization, and evaluated changes to the operating organization proposed as a result of the license transfer. The initial operating organization was determined to be acceptable by the initial licensing review, and any subsequent safety-related changes to the operating organization were required to be evaluated with an appropriate methodology. The staff is aware of no deficiencies in the existing operating organization and, therefore, the existing operating organization is currently acceptable. The proposed license transfer involves a transfer of the existing operating organization to Company.

In its February 29, 2000, submittal, the applicant indicated (Attachment 1, page 3) that:

The technical qualifications of Company to carry out its responsibilities under the Operating Licenses will be the same as the current technical qualifications of BGE. The reorganization involves no significant changes to either the technical organization or staff currently responsible for operating CCNPP. Both before and after the reorganization, essentially the same nuclear organization and staff will be responsible

for the operation and maintenance of CCNPP. The reorganization requires no change in the numbers and qualifications of personnel who operate CCNPP...the staff will remain essentially unchanged.

The applicant further states (Attachment 1, page 7), "...the technical and financial qualifications of Company to own, operate, and maintain CCNPP will be at least equal to the qualifications of the current licensee."

In Exhibit D-1, "Determination of Significant Hazards," of its February 29, 2000, submittal, the applicant states (page 1) that:

Calvert Cliffs, Inc., personnel will be technically qualified to operate the plant. Baltimore Gas and Electric Company nuclear personnel have been named to management positions in [Company] and will remain responsible for Calvert Cliffs operation and maintenance. The proposed amendment involves no changes in the training program or operating organization for Calvert Cliffs.

In (Attachment 2, page 3) of its February 29, 2000, submittal, the applicant states that:

The technical qualifications of Company to carry out its responsibilities under the Materials License will be the same as the current technical qualifications of BGE. The reorganization involves no significant changes to either the technical organization or staff currently responsible for operating the ISFSI. Both before and after the reorganization, essentially the same nuclear organization and staff will be responsible for the operation and maintenance of the ISFSI. The reorganization requires no change in the numbers and qualifications of personnel who operate the ISFSI...the staff will remain essentially unchanged.

The applicant also indicates (Attachment 2, page 7) that, "The proposed amendment does not involve any change in the design or operation of the Calvert Cliffs ISFSI, nor any change in the terms and conditions of the existing license or significant change in the Technical Specifications. The transfer will not involve any change to either the organizations or personnel directly responsible for operation of the facility."

In response to the staff's request, the applicant provided a supplemental submittal, dated June, 20, 2000, which clarified that upon transfer of the license, BGE personnel currently responsible for operating the plant and the ISFSI will become employees of the Company.

Based on the foregoing information, the applicant is proposing plant and ISFSI operating organizations and personnel with qualifications that will meet current plant and ISFSI Technical Specification requirements. The proposed license transfer will involve essentially no change to either the management or the plant staff of Calvert Cliffs responsible for operating and maintaining the plant and the ISFSI as they become Company personnel. Therefore, the staff concludes that the onsite organizations established to operate and maintain Calvert Cliffs and the ISFSI will be acceptable.

### Conclusions

The application adequately addresses the relevant requirements of 10 CFR 50.40(b), 10 CFR 50.80, and 10 CFR 72.50. The applicant has described the corporate level management and technical support organization and the onsite operating organizations that will be responsible for the operation and maintenance of Calvert Cliffs and the ISFSI after the transfer of operating authority. The staff concludes that Company will have an acceptable corporate organization,

onsite organizations, and adequate resources to provide technical support for the safe operation of the plant and the ISFSI under both normal and off-normal conditions after the transfer of operating authority. Therefore, Company will be technically qualified to be the holder of the Calvert Cliffs and ISFSI licenses.

## 6.0 ANTITRUST REVIEW

The Atomic Energy Act 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, 468 (1999). Therefore, since the transfer application postdates the issuance of the operating license for Calvert Cliffs, no antitrust review is required or authorized.

## 7.0 FOREIGN OWNERSHIP, CONTROL OR DOMINATION

According to the application, Constellation, CN, and Company are all Maryland companies. All of the directors and principal officers of Constellation, CN, and Company are, or will be, U.S. citizens. The application states that neither Constellation, CN, nor Company is or will be owned, controlled, or dominated by an alien, foreign corporation, or foreign government. The staff does not know or have reason to believe otherwise.

## 8.0 NUCLEAR INSURANCE

The provisions of the Price-Anderson Act (Section 170 of the AEA) and the Commission's regulations at 10 CFR Part 140 require that Company be added to the current indemnity agreement for Calvert Cliffs Units 1 and 2. In accordance with the Price-Anderson Act, Company will also be required to provide primary insurance and participate in the secondary retrospective insurance pool. These requirements can be met by purchasing insurance policies from the nuclear liability insurance pool, American Nuclear Insurers. Company will also be required to maintain property insurance as specified in 10 CFR 50.54(w). The information provided in the application concerning financial qualifications demonstrates that Company will be able to pay its share of the \$10 million per unit annual insurance premium in accordance with 10 CFR 140.21(e)-(f).

Consistent with NRC practice, the staff will require Company to provide satisfactory documentary evidence that Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations, prior to the issuance of the amended licenses reflecting Company as the licensee. Because the issuance of the amended licenses is directly tied to the consummation of the proposed transfers, the order approving the transfer of the licenses for Calvert Cliffs will be conditioned as follows:

Company shall, prior to the completion of the subject transfers, provide to the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Company has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

## 9.0 CONFORMING AMENDMENTS TO OPERATING LICENSES

### A. Introduction

As stated previously, BGE requested approval of proposed conforming amendments to Calvert Cliffs Renewed Facility Operating Licenses Nos. DPR-53 and DPR-69. The requested changes remove BGE as the current licensee from the licenses; insert references to Company, as appropriate; and add an explanatory background footnote to each license. The proposed

amendments were modified by the staff for clarity and to reflect the conditions of approval of the license transfers.

The supplemental information received after the initial Federal Register notice did not affect the applicability of the Commission's generic no significant hazards consideration determination set forth in 10 CFR 2.1315.

#### B. Discussion

The changes to be made to the licenses are indicated in Enclosure 2 to the cover letter forwarding the staff's order regarding the subject transfers. The changes do no more than accurately reflect the approved transfer actions. The amendments involve no safety questions and are administrative in nature. Accordingly, the proposed amendments are acceptable.

#### C. State Consultation

In accordance with the Commission's regulations, the State of Maryland official was notified of the proposed issuance of the amendments. The State official had no comments.

#### D. Conclusion With Respect to the Conforming Amendment

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) 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.

### 10.0 CONFORMING AMENDMENT TO THE ISFSI LICENSE

The staff has reviewed the proposed amendment to Materials License No. SNM-2505 for the Calvert Cliffs ISFSI. The amendment, which is similar to the change to the facility operating licenses, does no more than accurately reflect the approved license transfer, involves no safety question, is administrative, and does not affect the design, physical configuration, or operation of the ISFSI. The amendment also revised the Technical Specifications for the ISFSI to reflect the transfer of the license. The amendment as proposed was modified by the staff for consistency with the amendments to the operating licenses. The staff finds the amendment acceptable.

### 11.0 ENVIRONMENTAL CONSIDERATION

The subject application is for approval of a transfer of licenses issued by the NRC and approval of 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.

## 12.0 CONCLUSION

In view of the foregoing, the staff finds Company is qualified to be the holder of the licenses for Calvert Cliffs and the ISFSI, and that the transfer of the licenses is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto, subject to all of the conditions addressed in this safety evaluation.

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