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FROM: DUE: 05/03/06

EDO CONTROL: G20060408
DOC DT: 04/03/06
FINAL REPLY:

William B. Magnarelli
The Assembly
State of New York - Albany

TO:

Wilson, RI

FOR SIGNATURE OF :

** GRN **

CRC NO: 06-0193

Dyer, NRR

DESC:

Pending Merger of Florida Power and Light Group
and Constellation Energy - Potential Impact on
Nine Mile Point

ROUTING:

Reyes
Virgilio
Kane
Silber
Dean
Cyr/Burns
Collins, RI
Zimmerman, NSIR

DATE: 04/19/06

ASSIGNED TO:

CONTACT:

NRR

Dyer

SPECIAL INSTRUCTIONS OR REMARKS:

Template: SECY-017

E-RIDS: SECY-01

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Apr 18, 2006 16:52

PAPER NUMBER: LTR-06-0193 **LOGGING DATE:** 04/18/2006
ACTION OFFICE: EDO

AUTHOR: William Magnarelli
AFFILIATION: NY
ADDRESSEE: Ernest Wilson
SUBJECT: Concerns the pending merger of the FPL Group and Constellation Energy and the potential impact on the Nine Mile Point plant

ACTION: Direct Reply
DISTRIBUTION: RF

LETTER DATE: 04/03/2006
ACKNOWLEDGED: No
SPECIAL HANDLING:

NOTES:

FILE LOCATION: ADAMS

DATE DUE: 05/03/2006 **DATE SIGNED:**

EDO --G20060408



WILLIAM B. MAGNARELLI
Assemblyman 120th District

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April 3, 2006

Mr. Ernest P. Wilson III
Office of Investigations Field Office
Nuclear Regulatory Commission Region I
475 Allendale Road
King of Prussia, PA 19406-1415

Dear Mr. Wilson,

In the New York State Assembly, I represent the 120th District, which includes the City of Syracuse and the Towns of Geddes and Van Buren. I am writing to you to express serious concerns with the pending merger of the FPL Group and Constellation Energy and the potential impact of this merger on the Nine Mile Point nuclear plant in upstate New York.

There are a number of issues that concern me about the merger. First, I have been informed that Constellation does not currently plan to file notice of the merger with the New York Public Service Commission. I do not see how Constellation could avoid filing notice with the Commission, considering that the agency has jurisdiction and responsibility to approve this merger. It would be a violation of the Public Service Law for any of these electric utility assets to be transferred to another owner without the review and approval of the Commission, upon the initiation of a public, evidentiary proceeding. Indeed, the New York State legislature provided the Commission with such powers in order to protect the interests of New Yorkers with respect to electric utility assets, whether due to sale, merger or other financial transaction. I understand that, as a result of the deregulation of the electric generating markets in New York State, that electricity generation assets (i.e. power plants) have been provided a degree of "lightened regulation" as a result of a Public Service Commission order. I assume that such administrative order would not be used to avoid a legislated requirement that the Commission render a determination on the appropriateness of the asset transfer after a review of all key issues, including the financial capability of the new owner, and other issues, to ensure that the plant will be operated within the requirements of New York State and United States law.

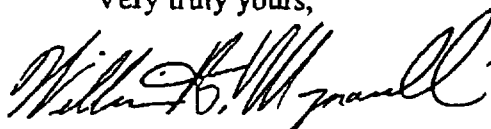
Second, an external staffing study conducted by Navigant Consulting in 2002 determined that the "best benchmark" staffing level for Nine Mile Point would be 1,184 employees. However, Constellation's 2006 Nine Mile Point Business Plan shows intent to reduce staffing to 932 employees. In my view, it is discrepancies such as this that require the investigation of both the New York State Public Service Commission and the Nuclear Regulatory Commission.

I sincerely hope that the interests of investors would not outweigh the safety needs of the plant from the perspective of Constellation. If a lapse in safety requirements and/or security resulted in a nuclear accident at Nine Mile Point, my district and the surrounding community of Central New York would be devastated by the serious public health risk posed by such an accident. To protect the millions of residents surrounding Nine Mile Point, safety and security cannot be compromised.

Finally, I have also been informed that Local 97 IBEW members were not asked for input in determining appropriate staffing levels, and that it appears Constellation has targeted bargaining unit employees for elimination. This information is of serious concern to me. Worker expertise is essential in nuclear facilities, and there are no assurances that contractor consultants would be required to meet the rigorous standards currently required. In addition, Local 97 workers have proven themselves to be dedicated to their jobs. If the nuclear industry hopes to continue to attract the most qualified workers, then it must negotiate in good faith and give due consideration to the suggestions and concerns of its employees.

I anticipate and appreciate your prompt response to this letter, most especially concerning the Nuclear Regulatory Commission's jurisdiction and responsibility with regard to the transfer of electric generating assets in New York State, including the Nine Mile Point nuclear plant. I would imagine that any transaction that may have an adverse impact on the safety of nuclear plants in New York State would be of particular concern to your department. Thank you for your attention to this request.

Very truly yours,



William B. Magnarelli
Member, NYS Assembly
120th District

WBM/ilb