

April 7, 2008

EA-08-075

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

SUBJECT: R. E. GINNA NUCLEAR POWER PLANT - NOTICE OF VIOLATION  
NRC Supplemental Inspection Report No. 05000244/2008502

Dear Mr. Carlin:

This letter refers to the supplemental inspection conducted on February 22, 2008, under Inspection Procedure 95002, "Inspection for One Degraded Cornerstone or Any Three White Inputs in a Strategic Performance Area," at the R.E. Ginna Nuclear Power Plant (Ginna). The inspection was conducted to review your assessment of the root cause and corrective actions taken as a result of a Yellow performance indicator (PI) related to the Emergency Response Organization Drill (ERO) Participation. The results of the inspection were discussed with your staff at the exit meeting conducted at the conclusion of the inspection on February 22, 2008, and were documented in the report enclosed in our letter dated April 7, 2008.

In a telephone conversation on March 13, 2008, Mr. Glenn Dentel of my staff informed you that as a result of this inspection, the NRC was considering escalated enforcement for an apparent violation involving the failure to obtain Commission approval prior to making changes to your emergency plan that decreased the effectiveness of your plan. This failure was contrary to 10 CFR 50.54(q). Mr. Dentel also informed you that we had sufficient information regarding this apparent violation and your corrective actions to make an enforcement decision without the need for a predecisional enforcement conference (PEC) or a written response from you. You indicated that Ginna did not believe a PEC or written response was needed.

As a result, based on the information developed during the inspection, the NRC has determined that a violation of NRC requirements occurred. This violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. Specifically, during your assessment of the Ginna Emergency Preparedness organization following the Yellow PI for ERO drill participation, you identified a violation of NRC requirements for maintaining the Emergency plan. The violation resulted from Ginna's failure to recognize that changes to the emergency plan that were made between 1996 and 2001, decreased the effectiveness of the plan. The specific changes involved revisions made to the NRC-approved emergency Action Levels (EALs). Six of the changes were determined to have resulted in a decrease in effectiveness of the emergency plan, in that the changes could have caused incorrect event classification, or could have delayed the classification such that required notifications to offsite emergency response organizations may not have been timely.

The most significant EAL change involved limiting a specific Site Area Emergency (SAE) EAL to a loss of coolant accident condition, instead of encompassing all events that cause a rapid uncontrolled decrease in containment pressure, which would also include events such as main steam line breaks. The lack of consideration for, and declaration of, a SAE, for all events causing a rapid uncontrolled decrease in containment pressure that could compromise containment integrity, could have prevented proper notification of offsite authorities.

The violation was considered safety significant due to the potential for an incorrect event classification or an untimely notification to offsite authorities during an event such as a SAE, as described above. The revised EALs could have adversely impacted the licensee's ability to assess and classify an event. Therefore, this violation is categorized at Severity Level (SL) III in accordance with Section C.2 of Supplement VIII of the NRC Enforcement Policy.

In accordance with the Enforcement Policy, a base civil penalty is considered for a SLIII violation. Because your facility has not been the subject of escalated enforcement actions within the last two years or two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI of the Policy. Credit is warranted, because Ginna's corrective actions were considered to be prompt and comprehensive. These corrective actions included restoring the EALs to their original configurations and training the operators on the corrected EALs.

Therefore, to encourage prompt and comprehensive correction of violations, after consultation with the Director, Office of Enforcement, I have been authorized not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 05000244/2008502 attached to our April 7, 2008 letter, and in this letter. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions>).

Sincerely,

*/RA/*

Samuel J. Collins  
Regional Administrator

Docket No. 50-244  
License No. DPR-18

Enclosure: Notice of Violation

cc w/encl:

M. J. Wallace, President, Constellation Energy Nuclear Group, LLC  
J. M. Heffley, Senior Vice President and Chief Nuclear Officer  
P. Eddy, Electric Division, NYS Department of Public Service  
C. Donaldson, Esquire, Assistant Attorney General, New York Department of Law  
C. W. Fleming, Esquire, Senior Counsel, Constellation Energy Group, Inc.  
B. Weaver, Director, Licensing, Constellation Energy Nuclear Group, LLC  
P. Tonko, President and CEO, New York State Energy Research and Development Authority  
J. Spath, Program Director, New York State Energy Research and Development Authority  
G. Bastedo, Director, Wayne County Emergency Management Office  
M. Meisenzahl, Administrator, Monroe County, Office of Emergency Preparedness  
T. Judson, Central New York Citizens Awareness Network  
S. Kempf, Regional Director, DHS, Region II

J. Carlin

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Sincerely,  
/RA/

Samuel J. Collins  
Regional Administrator

Docket No. 50-244  
License No. DPR-18

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- P. Eddy, Electric Division, NYS Department of Public Service
- C. Donaldson, Esquire, Assistant Attorney General, New York Department of Law
- C. W. Fleming, Esquire, Senior Counsel, Constellation Energy Group, Inc.
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SUNSI Review Complete: AED (Reviewer's Initials)

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OFFICE	RI/ORA	RI/ORA	HQ/OE	RI/RA	
NAME	KFarrar KF	DHolody DH	ASapountzis*	SCollins SJC	
DATE	03/19 /08	03/ 18 /08	03/ 20 /08	04/ 07 /08	

## ENCLOSURE

### NOTICE OF VIOLATION

R. E. Ginna Nuclear Power Plant, LLC  
Ginna Nuclear Power Plant

Docket No. 50-244  
License No. DPR-18  
EA-08-075

During an inspection completed at the Ginna Nuclear Power Plant on February 22, 2008, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.54(q) requires, in part, that a licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in 10 CFR 50.47(b) and the requirements in appendix E of this part. The nuclear power reactor licensee may make changes to these plans without Commission approval only if the changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to this part. 10 CFR 50.47(b)(4) requires, in part, that the licensee use a standard emergency classification and action level scheme.

Contrary to the above, between 1996 and 2001, the licensee made changes to its emergency plan which decreased its effectiveness without first obtaining Commission approval. Specifically, without first obtaining Commission approval, the licensee revised its emergency classification and action level scheme related to the Emergency Action Levels (EALs) for: (1) Failed Fuel Detectors; (2) Containment Radiation; (3) Primary to Secondary Leakage; (4) Containment Integrity Status for Unusual Events or Alert Levels; (5) Fire or Explosion; and, (6) Containment Integrity Status for the Site Area Emergency Level (CIS-SAE). These six EALs decreased the effectiveness of the emergency plan by non-conservatively limiting the conditions under which the emergency action levels could be declared. For example, the EAL for CIS-SAE was previously approved for any conditions causing a rapid uncontrolled decrease in containment pressure following initial increase, but the licensee changed the EAL for CIS-SAE to be limited to a rapid uncontrolled decrease in containment pressure following initial increase, due to a loss-of-coolant-accident, which excluded certain main steam line break conditions.

This is a Severity Level III violation (Supplement VIII).

The NRC has concluded that information regarding the reasons for the violation, the corrective actions taken to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed in the letter transmitting this Notice, and in the inspection report attached to our April 7, 2008 letter. Therefore, no response to this Notice is required. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-08-075" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555-0001, with a copy to the Regional Administrator, Region I, and a copy to the NRC Resident Inspector at Ginna, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest the violation, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from NRC's document system (ADAMS), accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams/html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 7th day of April 2008