

RS-11-187

November 22, 2011

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

Calvert Cliffs Nuclear Power Plant, Units 1 and 2  
Renewed Facility Operating License Nos. DPR-53 and DPR-69  
Docket Nos. 50-317 and 50-318

Calvert Cliffs Independent Spent Fuel Storage Installation  
Materials License No. SNM-2505  
Docket No. 72-8

Nine Mile Point Nuclear Station, Units 1 and 2  
Renewed Facility Operating License Nos. DPR-63 and NPF-69  
Docket Nos. 50-220 and 50-410

R.E. Ginna Nuclear Power Plant  
Renewed Facility Operating License No. DPR-18  
Docket No. 50-244

R.E. Ginna Independent Spent Fuel Storage Installation  
General License  
Docket No. 72-67

Subject: Submittal of Additional Information Regarding Exelon  
Consolidated Financial Statements Related to Application for  
Approval of Indirect Transfer of Control of Licenses

References : (1) Letter from Henry B. Barron (Constellation Energy Nuclear Group,  
LLC) and Christopher M. Crane (Exelon Generation Company,  
LLC) to Document Control Desk (NRC), dated May 12, 2011,  
Application for Approval of Indirect Transfer of Control of Licenses

- (2) Letter from Henry B. Barron (Constellation Energy Nuclear Group, LLC) to Document Control Desk, dated August 12, 2011, Response to NRC's Request for Additional Information on License Transfer Application
- (3) Letter from Steven L. Miller (Constellation Energy Nuclear Group, LLC) to Document Control Desk, dated November 10, 2011, Response to NRC's Request for Additional Information on License Transfer Application

In Reference 1, Exelon Generation Company, LLC (Exelon Generation) and Constellation Energy Nuclear Group, LLC (CENG) submitted an application for the NRC's approval of the indirect transfer of control of the NRC licenses held by subsidiaries of CENG. In response to a recent verbal request from the NRC staff, Exelon Generation is providing the following additional information regarding whether Exelon Corporation (Exelon) will include CENG in Exelon's consolidated financial statements following Exelon's acquisition of Constellation Energy Group Inc. (Constellation). For the reasons discussed below, Exelon has concluded that it will not include CENG in Exelon's consolidated financial statements; rather, it will recognize CENG as an equity method investment and record its share of CENG's net income on a monthly basis.

The CENG operating agreement gives Constellation clear control over CENG in matters relating to nuclear safety, security and reliability, staffing of key executive officers, certain government settlements, and changes to the Nuclear Advisory Committee (NAC) charter, authority or composition. Those terms and that control will be held by Exelon upon completion of the merger. The CENG operating agreement, however, does not give Constellation that same degree of control over other matters relating to budgets, distributions to equity holders or strategic business activities, such as acquisitions or dispositions of material properties.

Constellation determined that EDF had substantive non-controlling rights as defined in the applicable accounting guidance, which did not support continued consolidation of CENG in Constellation's financial reports. Constellation's conclusion regarding deconsolidation was reviewed with the Securities and Exchange Commission (SEC) and Constellation's independent auditors, PricewaterhouseCoopers (PwC). In References 2 and 3, Constellation has explained the reasoning for this decision to deconsolidate in responses to NRC requests for additional information.

Exelon has evaluated whether it should consolidate the CENG results in Exelon's post-merger financial reports. The decision to consolidate or deconsolidate involves judgments in the application of accounting rules to particular facts and circumstances. It is possible that another company or another independent auditor might reach a different conclusion about the application of the rules. Exelon, however, does not believe Constellation's decision to deconsolidate was erroneous, and Exelon does not believe that the SEC or PwC erred in their evaluation of that decision.

Exelon will exercise the same control over CENG as Constellation currently does, is governed by the same accounting rules as Constellation, is subject to the same regulation by the SEC, and has its financial statements reviewed and audited by the same independent auditors that review and audit Constellation's financial statements. In the absence of any material change in the facts and circumstances underlying the original decision to deconsolidate CENG, Exelon does not believe it is appropriate to depart from the determination made by Constellation.

Importantly, in the final analysis, a decision to consolidate or deconsolidate CENG in Exelon's financial statements does not affect the governance provisions of the CENG operating agreement or the allocation of control over the CENG joint venture. Nor does it suggest that EDF has anything more than a 49.99% interest in the joint venture. Simply put, Constellation's decision to deconsolidate does not give EDF any more control over the joint venture than would exist if Constellation had made a decision to consolidate. Likewise, a decision by Exelon to consolidate would not change the amount of control among the parties as described in the operating agreement.

Exelon takes seriously its obligations under Sections 103(d) and 104(d) of the Atomic Energy Act as implemented by 10 CFR 50.38 and will ensure, consistent with the operating agreement, that EDF will not exercise ownership, control or domination inconsistent with NRC requirements.

This correspondence does not contain any regulatory commitments.

If any additional information is needed, then please contact David J. Distel at (610) 765-5517.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 22<sup>nd</sup> day of November 2011.



J. Bradley Fewell  
Vice President and Deputy General Counsel  
Exelon Generation Company, LLC

cc: Regional Administrator – NRC Region I  
NRC Senior Resident Inspector – Calvert Cliffs Nuclear Power Plant, Units 1 and 2  
NRC Senior Resident Inspector – Nine Mile Point Nuclear Station, Units 1 and 2  
NRC Senior Resident Inspector – R. E. Ginna Nuclear Power Plant  
D. V. Pickett, NRC Senior Project Manager