

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of Constellation Energy Nuclear Group LLC; R.E. Ginna Nuclear Power Plant, LLC; and Nine Mile Point Nuclear Station, LLC to Initiate a Proceeding to Establish the Facility Costs for the R.E. Ginna and Nine Mile Point Nuclear Power Plants

Case 16-E-_____

**PETITION TO INITIATE A PROCEEDING TO ESTABLISH THE FACILITY COSTS
FOR THE R.E. GINNA AND NINE MILE POINT NUCLEAR POWER PLANTS**

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Petitioners Constellation Energy Nuclear Group LLC (“CENG”); R.E. Ginna Nuclear Power Plant, LLC, (“Ginna”); and Nine Mile Point Nuclear Station, LLC (“Nine Mile”) (Ginna and Nine Mile together, the “Nuclear Generators”),¹ hereby petition the New York State Public Service Commission (the “Commission”) to (1) initiate a proceeding to accept certain financial data concerning the Nuclear Facilities,² and (2) determine the appropriate facility costs for the Nuclear Generators under the program expected to be approved in the Commission’s Clean Energy Standard (“CES”) proceeding.³ These actions are needed expeditiously to achieve the CES program’s objectives.

Specifically, the CES proposes a zero-emission credit (“ZEC”) program to “ensure that emission-free power from eligible operating nuclear generating plants is properly valued.”⁴ This

¹ Ginna and Nine Mile own and operate the R.E. Ginna Nuclear Power Plant (the “Ginna Facility”) and the Nine Mile Point Nuclear Station (the “Nine Mile Facility”) (together, the “Nuclear Facilities”), respectively. CENG is the upstream owner of Ginna and Nine Mile.

² Two exhibits containing financial data are being submitted with this petition. The information contained in the exhibits is trade secret and/or confidential information. The exhibits have been filed with the Records Access Officer with a request for confidentiality.

³ Case 15-E-0302: *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*.

⁴ *Governor Cuomo Directs Department of Public Service to Begin Process to Enact Clean Energy Standard*, N.Y. Gov., <https://www.governor.ny.gov/news/governor-cuomo-directs-department-public-service-begin-process-enact-clean-energy-standard> (Dec. 2, 2015).

program will provide eligible nuclear facilities with compensation for the zero-emission attributes of their production and will serve as a bridge to the State achieving the reductions in greenhouse gas emissions (“GHG”) envisioned by the State Energy Plan.⁵

Due to long lead time in planning for and operating nuclear power plants, certain operational decisions concerning the Nuclear Facilities must be made soon. Consequently, CENG cannot wait until after the Commission issues an order in the CES proceeding to submit its financial data and only then initiate an analysis regarding the appropriate value to compensate the Nuclear Facilities for their zero-emission attributes. In light of these long lead times and the volume and complexity of the Nuclear Generators’ financial data, CENG is submitting this information now in contemplation of a Commission order approving a ZEC program so that Department of Public Service Staff (“Staff”) has sufficient time to analyze the Nuclear Generators’ financial data, establish the appropriate compensation, and issue a determination concurrently with the Commission’s order approving the nuclear component of the CES program.

In support of this petition, CENG is submitting certain financial data for the Nuclear Facilities. Based on this financial data, and using the ZEC program structure proposed by CENG in its initial comments on Staff’s *White Paper on Clean Energy Standard* (the “White Paper”), CENG realizes a facility cost of \$50.00 per megawatt hour (“MWh”). Compensation based on

⁵ 2015 STATE ENERGY PLAN, Vol. 1, p. 112, available at: <http://energyplan.ny.gov/Plans/2015>. As CENG stated in its comments on the White Paper, nuclear facilities that are physically capable of delivering their energy and capacity into New York and that are not subject to recall by another jurisdiction or system operator should be eligible to participate in the program. Case 15-E-0302: *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, CENG Comments on White Paper (Filed Apr. 22, 2016).

that facility cost is necessary for the Nuclear Facilities' continued operation and realization of the State's GHG reduction goals.⁶

I. BACKGROUND

A. The Nuclear Facilities

i. The Ginna Facility

The Ginna Facility is a 581 megawatt ("MW") single-unit pressurized water reactor located on 426 acres along the south shores of Lake Ontario in Ontario, New York, about 20 miles northeast of Rochester, New York. In 2004, the Ginna Facility's license to operate was extended until September 2029.⁷

The Ginna Facility would have to be refueled in the first half of 2017 to allow for continued operations upon expiration of its Reliability Support Services Agreement. In order for refueling to occur, fuel must be ordered by October 2016 so that the prefabrication process can begin to meet the scheduled refueling in 2017.

ii. The Nine Mile Facility

The Nine Mile Facility is an approximately 1,900 MW two-unit boiling water reactors located on 900 acres along the shore of Lake Ontario in Scriba, New York. The Nine Mile Facility is licensed to operate through 2029 and 2046 for units 1 and 2, respectively.

Nine Mile Point Unit 1 is scheduled for refueling in the first half of 2017. In order for refueling to occur, fuel must be ordered by October 2016 so that the prefabrication process can begin in sufficient time to accommodate the scheduled refueling in early 2017.

⁶ For reference, a copy of CENG's initial comments on the White Paper is attached. By attaching a copy of its initial comments, CENG is not inviting parties to comment on the recommended ZEC program structure in this proceeding. Such comments may be made in the CES proceeding through reply comments on the White Paper, which are due on May 13, 2016.

⁷ See Issuance of Renewed Facility Operating License No. DPR-18 for R.E. Ginna Nuclear Power Plant, Operating License, Nuclear Regulatory Commission, issued May 19, 2004 (Adams Accession No. ML041330109).

B. The CES Proceeding

On January 21, 2016, the Commission expanded the scope of the existing Large-Scale Renewable (“LSR”) proceeding to include consideration and implementation of a CES.⁸ As directed by the Commission in the CES Order, on January 25, 2016, Staff issued the White Paper.⁹ The White Paper recognizes that New York’s carbon reduction strategy relies on robust energy efficiency and significant expansion of renewables, but that forward progress in reducing carbon also requires steps to ensure that existing emissions-free sources of electricity remain operational.¹⁰ To that end, the White Paper proposes a nuclear tier as part of the CES program to ensure that emission-free power from eligible nuclear generating facilities continues to be produced in the near term and that the environmental attributes are properly valued (the “Nuclear Tier”).¹¹

The White Paper proposes an alternative compliance payment (“ACP”) that would establish the maximum price that would be paid per ZEC and be calculated based upon the difference between the anticipated costs of eligible units and forecasted wholesale prices. The ACP will need to be determined prior to any procurement under the Nuclear Tier of the CES as it will provide an essential price signal to buyers of ZECs. Alternatively, if ZECs are procured centrally, the ACP will determine the price at which that procurement takes place. As set forth in more detail below, for the Commission to achieve its objective of ensuring that New York does not backslide in its low-carbon, low-emission goals, it must act now to determine the Nuclear Facilities’ appropriate cost basis.

⁸ Case 15-E-0302: *In the Matter of Implementation of a Large-Scale Renewable Program*, Order Expanding Scope of Proceeding and Seeking Comments (Issued Jan. 21, 2016) (the “CES Order”).

⁹ Case 15-E-0302: *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Staff White Paper on Clean Energy Standard (Filed Jan. 25, 2016).

¹⁰ Indeed, the White Paper notes that, in total, the Nuclear Facilities, together with the James A. Fitzpatrick Nuclear Power Plant, provide approximately 16% of the State’s energy. As a result, the White Paper concludes that their closure would have dramatic impacts on New York, in particular on the State’s effort to lower GHG emissions.

¹¹ White Paper, at 30.

II. PETITION

CENG REQUESTS THAT THE COMMISSION INITIATE A PROCEEDING TO ESTABLISH THE FACILITY COSTS FOR THE R.E. GINNA AND NINE MILE POINT NUCLEAR POWER PLANTS

In response to some nuclear facilities' potential for retirement and inadequate compensation for environmental attributes of these nuclear facilities, the Commission stated that, "[i]n assessing a CES, careful thought needs to be given regarding the need to preserve the emission gains made by the State."¹² A delay in determining the appropriate ZEC compensation for the Nuclear Facilities will threaten those emission gains. CENG must make immediate decisions regarding the Nuclear Facilities' continued operation. Therefore, CENG simply cannot wait until the Commission issues an order implementing a ZEC program to submit its financial data for Staff to review and establish the appropriate ZEC compensation level. As a result, CENG is submitting this information now, in anticipation that the Commission will approve the ZEC program, so that Staff has sufficient time to analyze the Nuclear Facilities' financial data, determine the Nuclear Facilities' cost structure and issue a determination of the appropriate facility costs for the Nuclear Generators, concurrently with the Commission's order approving the CES program.

Nine Mile Unit 1's upcoming refueling outage exemplifies the need and urgency for this concurrent review. Ginna would confront similar challenges if expected to operate beyond the expiration of the RSSA. Nine Mile's refueling outage is scheduled for the first half of 2017, meaning that fuel prefabrication must begin by October 2016. In order for CENG to commit to the significant expenditure of ordering fuel at that time, it requires the certainty of a Commission order and related procurement that it will receive the necessary compensation to continue

¹² CES Order, at 5.

operating the Nine Mile Facility. Assuming that the Commission issues an order approving a ZEC program by July 2016, Staff would need to review Nine Mile's financial data and determine the requisite amount of compensation for Commission consideration no later than its August session in order to predate the fuel prefabrication deadline in October. In order to meet this upcoming operation deadline, CENG respectfully requests that the Commission accept the Nuclear Generators' financial data submitted with this petition now and grant the relief requested herein prior to September 2016.

III. CONCLUSION

For the reasons set forth above, Petitioners respectfully request that the Commission (1) initiate a proceeding to accept certain financial data concerning the Nuclear Facilities, and (2) determine the appropriate facility costs for the Nuclear Generators under the ZEC program expected to be approved in the Commission's concurrent CES proceeding.

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