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VIA ELECTRONIC FILING

Hon. Kathleen H. Burgess
Secretary
NYS Public Service Commission
3 Empire State Plaza
Albany, NY 12223

RE: Case 16-E-0270: 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

Dear Secretary Burgess:

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”) respectfully submit this response to the request for an extension of the deadline to file comments filed on June 9, 2016, by Multiple Intervenors.

Petitioners do not object to an extension of the deadline for filing comments to July 11, 2016, particularly in light of the additional technical conference now scheduled for June 24, 2016. However, Petitioners write to emphasize the extreme time-sensitivity of their petition. As detailed below, CENG must make critical business decisions by the end of September 2016, regarding the future of the Nuclear Generators, and those decisions cannot take into account a Clean Energy Standard (“CES”) proposal that is merely speculative. A decision to invest tens of millions of dollars in units that are rapidly losing money cannot be justified on the hope that the CES proceeding will ultimately result in contracts that will justify the investment. Accordingly, if the CES is to help prevent the premature retirement of existing nuclear facilities, the extension of the comment deadline cannot lead to a delay in the issuance of any final Order that may result.

First, Nine Mile Unit 1 is scheduled to commence a refueling outage during March 2017. The refueling process requires a long lead time for prefabrication (essentially the engineering work) and the fabrication or making of the fuel. Typically, nine months to a year prior to the start of a refueling outage, a nuclear facility will engage a fuel vendor to prefabricate the fuel, which includes the preparation of reload and safety analyses. These analyses will determine the number of bundles of fuel and the level of enrichment needed for the fuel to meet the individual specifications of the unit. Once the engineering is complete, the vendor begins to fabricate the fuel by sintering (similar to baking) uranium powder into ceramic pellets. The pellets are then loaded into 12 foot long rods. These rods are assembled into fuel bundles, which ultimately will be installed in the unit. The bundles and pellets are made to the unit’s specifications as

determined by the prefabrication work. Once the fabrication of the fuel is completed, the fuel is delivered to the unit a few weeks in advance of the start of the refueling outage.

Nine Mile Unit 1 has not yet ordered fuel, even though refueling would need to take place in March 2017. CENG needs the certainty of the Public Service Commission's (the "Commission") Order approving the CES, the completion of Department of Public Service Staff's review of cost data, and the Commission's approval of CENG's compensation under the program *before* CENG makes the investment of approximately \$55 million that will be necessary to refuel Nine Mile Unit 1. Although as noted above, the prefabrication and fabrication processes generally take nine months to a year to complete, the processes can be compressed into six months with additional expense. Thus, for Nine Mile Unit 1, CENG will need to determine whether to order the fuel no later than the end of September 2016.

Second, under the settlement in the Ginna Reliability Support Services Agreement ("RSSA") proceeding, Ginna must file a notice of its intent to continue commercial operations with the Commission by September 30, 2016, if it does not intend to retire at the expiration of the RSSA term.¹ Under the terms of the RSSA, the continued operation of the Ginna plant after the expiration of the RSSA term would trigger an obligation for Ginna to incur substantial capital recovery balance costs. Thus, like Nine Mile Unit 1, Ginna must make the critical decision whether to continue operations no later than the end of September 2016.²

In order for CENG to make the investment and commitment necessary to keep Nine Mile Unit 1 and Ginna in operation, it needs the certainty provided by a Commission Order approving the CES *and* a signed contract procuring zero emission credits from the Nuclear Generators. CENG cannot simply roll the dice and make substantial investments on the hope that the program ultimately adopted by the Commission is sufficient to justify the substantial investments and commitments required to enable continued operation of CENG's upstate nuclear plants. Thus, CENG will need a contract in hand by September 2016. Time is of the essence.

That time sensitivity is the reason why CENG submitted this Petition in May. If the Commission approves CES and adopts a pricing mechanism based on costs, as the Staff White Paper proposed, the Commission will be able to take the cost data supplied in this docket and plug that data into whatever pricing formula it approves, so that a procurement can be held and contract signed by September 2016. And stakeholders will already have had, by virtue of this docket, the opportunity to understand those costs and make any information requests they may have about their basis. This docket is not the place for parties to engage in policy discussions about how Tier 3 pricing should be structured, or whether different categories of costs should be included or excluded. Docket 15-E-0302 is the place for those discussions.

¹ Case 14-E-0270: *Petition Requesting Initiation of a Proceeding to Examine a Proposal for Continued Operation of the R.E. Ginna Nuclear Power Plant, LLC*, Joint Proposal (Filed October 21, 2015), at Section 4.1.3.7.

² Ginna also faces a near-term decision on refueling. Ginna's next refueling outage is scheduled to commence during April 2017 so it must decide whether to make the approximately \$45 million investment in fuel in October 2016.

Accordingly, while CENG does not object to the request for an extension of the comments deadline in this docket, CENG strongly disagrees with the notion that this proceeding cannot go forward until the final CES order is issued. The purpose of this proceeding is for CENG to present facts, and for stakeholders to gather facts, about CENG's costs, so that data can expeditiously be applied to whatever pricing formula the Commission may approve in Docket 15-E-0302.

In light of the foregoing, CENG proposes that any reply comments be filed no later than July 15, 2016, to ensure that the Commission can issue any order in this docket by no later than August 1, 2016.

Respectfully submitted,

/s/ Steven D. Wilson

Steven D. Wilson

cc: Active Parties