

2. During the actual analysis of alternatives, the affected environment, and potential impacts.

3. During the review of the results of analyses as recorded in EAs and EISs. Commission recommended actions for involving the concerned public include:

1. Identify the potential "stakeholders" (that is, those with an economic, cultural, social, or environmental "stake") in the action through background research, consultation with knowledgeable parties, and public meetings.

2. Consult with stakeholders to establish and address their concerns.

3. Use facilitators where appropriate and necessary.

Where there may be language or cultural barriers to effective communication about scoping actions or decisions, public participation measures must be sensitive to such barriers and make appropriate efforts to overcome them. Translations into the community's usual language, and meetings held in ways that accommodate their cultural traditions, values, and modes of communication may be necessary.

Public meetings for purposes of scoping MUST:

1. Ensure that meeting facilities are accessible to the disabled.

2. Provide signers or interpreters for the hearing impaired, if requested.

3. Make special arrangements as needed for consultation with affected Indian tribes or other Native American groups who have environmental concerns that cannot be shared in a public forum.

To the fullest extent possible, the Commission shall use the public participation processes designed for carrying out NEPA requirements concurrent with and integrated with the environmental impact analyses and related surveys and studies required to comply with the NHPA, Section 106; the Comprehensive Environmental Response, Compensation, and Liability Act; the Native American Graves Protection and Repatriation Act (NAGPRA); Superfund Amendments & Reauthorization Act (SARA) Title III (Emergency Planning and Community Right-to-Know Act, or EPCRA); the Fish and Wildlife Coordination Act, the Endangered Species Act, and applicable Executive Orders.

With regard to the Section 106 process, the submitting applicant must, except where appropriate to protect confidentiality concerns of affected parties, provide the public with information about an undertaking and its effects on historic properties and seek public comment and input prior to

submission of the potential undertaking to the Commission. Members of the public may also provide views on their own initiative for the Executive Director, the Commission, and submitting applicant to consider in decision making.

Section 12. Delegations to the Executive Director

In conjunction with carrying out these procedures, the Commission delegates to the Executive Director the functions of:

(A) Determining whether to prepare an EIS, make a Finding of No Significant Impact, or issue a Categorical Exclusion determination.

(B) Scoping and obtaining the information required for the preparation of a draft EIS or an environmental assessment.

(C) Preparing a draft EIS.

(D) Circulating a draft EIS for review and comment to EPA, affected and interested public agencies, and the general public.

(E) Integrating agency and public comments, where appropriate, into the preparation of the final EIS.

(F) Distributing the final EIS to EPA and all agencies and individuals who commented on the draft EIS.

(G) Determining the appropriate environmental documentation for each stage of Commission review, including adoption of federal agency prepared NEPA documents when appropriate.

(H) Monitoring and ensuring that mitigation and other conditions established by the Commission are implemented, including informing the public and cooperating or commenting agencies on progress regarding mitigation measures that the Commission proposed and were adopted.

(I) Preparing, circulating, and filing supplements to either draft or final environmental impact statements, if the Executive Director or the Commission finds that there are substantial changes to a proposed action that are relevant to environmental concerns, significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impact, or that the purpose of NEPA will be furthered by doing so.

These delegates are not to be construed, however, to extend to the requirement to respond to any comments of the Advisory Council on Historic Preservation. That responsibility solely resides with the Chairman of the Commission.

Section 13. Public Information

Interested persons can obtain information on all elements of the

Commission's NEPA and Section 106 processes from the Commission at 401 Ninth Street, NW., North Lobby, Suite 500, Washington, DC 20576. The public is also invited to visit the National Capital Planning Commission's Web site at www.ncpc.gov. The Office of Urban Design and Plans Review, at (202) 482-7200, can provide specific information on any aspect of a Commission NEPA document. The Commission will, to the maximum extent practicable, use the Commission's website and other effective means of communication to provide the public with current and relevant information regarding the quality of the human environment in the National Capital Region and the past, present and reasonably foreseeable future effects of Commission actions and proposals.

Section 14. Supersession

The Commission's environmental policies and procedures published at 36 FR 23706, 37 FR 3010, 37 FR 4936, 37 FR 11198, 37 FR 16039, and 47 FR 51481 are superseded.

Section 15. Authority

These procedures are adopted pursuant to the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*, the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (43 FR 55978-56007), and the implementing regulations of Section 106 of the National Historic Preservation Act, 36 CFR, Part 800—Protection of Historic Properties.

Dated: June 30, 2004.

Wayne E. Costa,

Acting General Counsel & Designated Federal Register Officer.

[FR Doc. 04-15442 Filed 7-7-04; 8:45 am]

BILLING CODE 7520-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-244]

In the Matter of Rochester Gas and Electric Corporation (R.E. Ginna Nuclear Power Plant), Order Approving Transfer of License and Conforming Amendment

Note: This Order was published on May 28, 2004, and has been subsequently modified by Order Modifying May 28, 2004, Order Approving Transfer of License and Conforming Amendment (June 14, 2004, 69 FR 33075).

Rochester Gas and Electric Corporation (RG&E) is the holder of

Renewed Facility Operating License No. DPR-18, which authorizes the operation of R. E. Ginna Nuclear Power Plant (Ginna) at steady-state power levels not in excess of 1520 megawatts thermal. The facility is located on the south shore of Lake Ontario, in Wayne County, New York. The license authorizes Ginna to possess, use, and operate the facility.

By letter dated December 16, 2003, RG&E and Constellation Generation Group, LLC (CGG), acting on behalf of Constellation's newly formed indirect subsidiary, R. E. Ginna Nuclear Power Plant, LLC, (Ginna LLC), jointly submitted an application to the Nuclear Regulatory Commission (NRC) requesting approval of the transfer of Facility Operating License No. DPR-18 for Ginna from RG&E to Ginna LLC. The licensee, RG&E, and Ginna LLC also jointly requested approval of a conforming amendment to reflect the transfer. The application was supplemented by submittals dated March 26 and April 30, 2004, from RG&E and February 27, and April 30, 2004, from CGG. The application and supplements are collectively referred to herein as the application, unless otherwise noted.

Ginna LLC, a Maryland limited liability company, is an indirect wholly owned subsidiary of CGG. According to the application, Ginna LLC would assume title to the facility following approval of the proposed license transfer. The conforming license amendment would remove references to RG&E from the license and add references to Ginna LLC, as appropriate, and make other administrative changes to reflect the proposed transfer.

RG&E and CGG requested approval of the transfer of the license and a conforming license amendment pursuant to 10 CFR 50.80 and 50.90. Notice of the requests for approval and an opportunity to request a hearing or submit written comments was published in the **Federal Register** on January 22, 2004 (69 FR 3183). The Commission received no requests for a hearing and no written comments.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. After reviewing the information submitted in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Ginna LLC is qualified to be the holder of the license to the

extent proposed in the application, and that the transfer of the license to Ginna LLC is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed license amendment will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. The findings set forth above are supported by the staff's Safety Evaluation dated May 28, 2004.

Accordingly, pursuant to sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the transfer of the license as described herein to Ginna LLC is approved, subject to the following conditions:

(1) Before the completion of the sale and transfer of Ginna, Ginna LLC shall provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Ginna LLC has obtained the appropriate amount of insurance required of licensees under 10 CFR part 140 of the Commission's regulations.

(2) On the closing date of the transfer of Ginna, Ginna LLC shall obtain from RG&E a minimum of \$201.6 million for decommissioning funding assurance for the facility, and ensure the deposit of such funds into a decommissioning trust for Ginna established by Ginna LLC.

(3) Decommissioning Trust.

(i) The decommissioning trust agreement must be in a form acceptable to the NRC.

(ii) Ginna LLC shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application and the

requirements of this Order, and consistent with the Safety Evaluation supporting this Order.

(4) After receipt of all required regulatory approvals of the transfer of Ginna, Ginna LLC shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt within 5 business days, and of the closing date of the sale and transfer of Ginna no later than 7 business days prior to the date of closing. If the transfer of the license is not completed by June 1, 2005, this Order shall become null and void, provided, however, on written application and for good cause shown, this date may, in writing, be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject license transfer is approved. The amendment shall be issued and made effective at the time the proposed license transfer is completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 16, 2003, and supplemental letters from RG&E dated March 26, and April 30, 2004, and from CGG dated February 27, and April 30, 2004, and the Safety Evaluation dated May 28, 2004, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, File Public Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through ADAMS Public Electronic Reading Room link at the NRC Web site (<http://www.nrc.gov>).

Dated in Rockville, Maryland, this 28th day of May 2004.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 04-15482 Filed 7-7-04; 8:45 am]

BILLING CODE 7590-01-P