

July 1, 2022

Basil Seggos, Co-chair
Doreen Harris, Co-chair
Draft Scoping Plan Comments
NYSERDA
17 Columbia Circle
Albany, NY 12203-6399

Dear Chairs Harris and Seggos:

Constellation operates the nation's largest fleet of carbon-free nuclear power plants, producing 150 million megawatt hours of zero-carbon electricity last year. Constellation is also the sole nuclear power producer in the state of New York. Constellation's New York nuclear facilities—Nine Mile Point Nuclear Power Station Unit 1, Nine Mile Point Nuclear Power Station Unit 2, R.E. Ginna Nuclear Power Plant, and James A. FitzPatrick Nuclear Power Plant—generate approximately 28 million megawatt-hours of emissions-free electricity each year, displacing over 16 million tons of carbon dioxide emissions annually. These highly reliable, zero-emission baseload generation facilities are a major contributor to the State's clean energy efforts. The facilities meet the highest standards of reliability and safety, are meticulously maintained with continuous investments, and are well positioned to run for decades.

The company employs approximately 2,000 people in New York spanning the four upstate nuclear units and its competitive retail energy supply business. Our employees act with integrity powering the communities we serve, including a strong sense of volunteerism and community engagement. In 2021, our New York employees pledged more than \$470,000 to 400 charities and volunteered nearly 4,000 hours with local organizations.

Constellation has a proven record of best-in-class nuclear operations. It has had capacity factor averages nearing or exceeding 94% since 2013, averaging 4 percent better than the industry average annual capacity factor for the past 20 years.

Beginning April 1, 2017, and continuing by the terms of their existing contracts through spring 2029, the upstate New York nuclear assets are compensated for the value of their carbon-free environmental attributes via New York's groundbreaking Zero Emissions Credit ("ZEC") program implemented by the Public Service Commission ("Commission") as a core component of its Clean Energy Standard program ("CES Program").¹ The collective contributions of these units to the state's

¹ See NYPSC Case I5-E-05 03, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard (issued and effective August 1, 2016) (hereinafter, "CES Proceeding," "CES Order" and "CES Program," respectively) at 119-52 & Appendix E.

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climate change efforts are substantial. Currently, the four units comprise 29 percent of the state's emission-free installed capacity and produce approximately 47 percent of the state's emission-free electricity.² This program is a critical factor contributing to the ongoing viability of these plants and their ability to help the state achieve its clean energy objectives.

Constellation is encouraged by the Climate Action Council's ("Council") draft Scoping Plan that acknowledges the value proposition of the company's upstate nuclear power stations. The draft Scoping Plan recommends the Commission conduct analysis prior to the expiration of the existing ZEC program in 2029 to determine if the upstate nuclear facilities are necessary for grid reliability and meeting the state's 2040 emissions mandate. The Council's Power Generation Advisory Panel further recommends this analysis occur in alignment with the Nuclear Regulatory Commission's ("NRC") relicensing process. In light of this acknowledgement, and as the sole nuclear operator in the state, Constellation felt it was particularly important to document the status of the assets' corresponding NRC operating licenses and relevant timelines.

All of Constellation's New York units have been granted license renewal by the NRC extending their licenses to 60 years. Nine Mile Point Unit 1 and R. E. Ginna are currently licensed by the NRC to operate until 2029 and FitzPatrick and Nine Mile Point Unit 2 are licensed to operate until 2034 and 2046, respectively. The NRC provides that nuclear plants may also apply to renew their licenses for a second time from 60 to 80 years, or so-called "subsequent license renewal." To date, Constellation has not applied for subsequent license renewal for these units.

Constellation has publicly stated that we plan to file applications to extend the licenses of our nuclear fleet to 80 years for our units that receive continued policy support for their long-term operation.³ However, Constellation also has observed that the operating license renewal process takes approximately four to five years from the commencement of the process, which includes approximately two years for us to develop the application and approximately two additional years for the NRC to review the application.⁴ While the NRC's regulations require applications for license renewal (including subsequent license renewal) be submitted no later than five years prior to expiration, Constellation has sought and received approval to submit applications for subsequent license renewal to the NRC no later than three years for both Ginna and Nine Mile Point 1. As was explained in Constellation's application for this exemption (submitted in 2020), "[t]he New York ZEC program expires on March 31, 2029, and it is unknown at this time whether this or any similar

Pursuant to this program, the New York Nuclear Assets receive ZEC compensation under long-term contracts administered by the New York State Energy Research and Development Authority ("NYSERDA")

² New York Independent System Operator 2022 Load and Capacity "Gold Book" Report: [cd2fb218-fd1e-8428-7f19-df3e0cf4df3e \(nyiso.com\)](https://www.nyiso.com/documents/and-attachments/2022-07-19/2022-07-19-df3e0cf4df3e)

³ Constellation Energy Corporation, Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, at 20. Available at <https://investors.constellationenergy.com/static-files/75e4ce2d-05b5-4529-b9af-0fa2cf24f997>.

⁴ *Id* at 10.

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program will be continued beyond then. Given the uncertainty of this program beyond 2029, EGC cannot plan for those revenues to continue into the period of subsequent license renewal for Ginna and [Nine Mile Point 1].⁵ Therefore, to ensure the expedient relicensing of Ginna and Nine Mile Point 1 and their continued operation beyond 2029, the optimal time to determine the future of the New York ZEC program is no later than 2024.

Constellation fully supports New York state's laudable renewable and clean energy goals embodied in the Climate Leadership Community Protection Act and applauds the Council's progress towards developing its final Scoping Plan of decarbonization recommendations, due January 2023.

Thank you for your consideration of Constellation's comments regarding this important matter.

Sincerely,

A handwritten signature in blue ink that reads "W. Mason Emmett". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Mason Emmett
Senior Vice President, Public Policy

⁵ Exelon Generation Company's Request for Exemptions from 10 CFR 2.109(b) (Sept. 11, 2020), Attachment 1, at 1. Available at <https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20255A001>.