

Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 8, 2000, as supplemented by letter dated February 2, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, or 301-415-4737, or by e-mail at pdr@nrc.gov.

Dated at Rockville, Maryland, this 22nd day of August 2001.

For the Nuclear Regulatory Commission.

S. Singh Bajwa,

*Project Director, Project Directorate III,
Division of Licensing Project Management,
Office of Nuclear Reactor Regulation.*

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27433]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

August 24, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments(s) is/are available for public inspection through the

Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 18, 2001, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 18, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Energy East Corporation, et al. (70-9875)

Energy East Corporation ("Energy East"), a registered holding company, and its public utility subsidiary, New York State Electric & Gas Company ("NYSEG"), both located in Albany, New York 12212-2904 (together, "Applicants"), have filed a declaration under section 12(d) and rules 44 and 54 of the Act.

Applicants propose that NYSEG sell its eighteen percent interest in the Nine Mile Point Unit No. 2 nuclear generating station ("NMP2") ("Assets"),¹ located in Scriba, New York, to Constellation Nuclear, LLC ("CNLLC"), a subsidiary of Constellation Energy Group, Inc. ("CEGI"), a nonaffiliate. Upon closing, CNLLC will transfer the Assets to Nine Mile Point Nuclear Station, LLC ("NMPNS"), a wholly owned subsidiary company of CNLLC.² NYSEG is

¹ Assets include: (a) Real property, buildings and improvements; (b) all spent nuclear fuel, high-level waste, low-level waste, source and by product material at the site, and fuel-related inventory; (c) all machinery, equipment, such as computer hardware and software and communications equipment, vehicles, tools, spare parts, fixtures, furniture and furnishings and other personal property relating to or used in the ordinary course of business to operate the facilities, other than property used primarily as part of the transmission assets, or that is otherwise excluded from the sale; (d) the material agreements, listed on schedules to the APA and other non-material contracts; (e) all transferable permits; (f) all books, operating records and other documents relating to the facilities (subject to the right of NYSEG to retain copies of same for its use) other than general ledger accounting records; and (g) all unexpired, transferable warranties and guarantees from third parties with respect to any item of real property or personal property constituting part of the purchased assets.

² NMPNS was formed by CNLLC to hold the Assets.

divesting all of its generating assets in accordance with the New York state electric restructuring law.

NYSEG is a regulated public utility company engaged in transmitting and distributing electricity and transporting, storing and distributing natural gas. NYSEG generates electricity from its eighteen percent share of NMP2 and from its several hydroelectric stations. NYSEG provides delivery services to approximately 824,000 electricity customers and 248,000 natural gas customers. NYSEG's service territory is in the central, eastern and western parts of New York, has an area of approximately 20,000 square miles and a population of 2,500,000.

CEGI is a diversified energy company and an exempt holding company under section 3(a)(1) of the act by rule 2 of the Act. CNLLC is a direct, wholly owned subsidiary of CEGI. CNLLC, which is the parent of NMPNS, is the party to each of the other transaction documents. CNLLC will transfer its rights and obligations under some or all of the transaction documents to NMPNS prior to purchasing the Assets. NMPNS will own the Assets upon closing.

NYSEG's interest in NMP2 will be sold for a total of approximately \$128 million under an asset purchase agreement ("APA") entered into by NYSEG and CNLLC on December 11, 2000. Under the APA, CNLLC will pay fifty percent of the purchase price to NYSEG at closing and the remaining balance annually for five years in equal installments. The sale price and the purchaser of the Assets were determined by an auction process managed by J.P. Morgan and Navigant Consulting, Inc. As part of the APA, NYSEG and CNLLC also entered into a power purchase agreement ("PPA") and a revenue sharing agreement ("RSA") on December 11, 2000.

The PPA provides that NYSEG will purchase 16.2 percent of the capacity and energy from NMP2 at certain prices set forth in the PPA. The PPA's terms take effect on the closing date of the transaction and continue for ten years. After completion of the PPA's ten-year term, NMPNS, as CNLLC's assignee, will pay NYSEG eighty percent of the amount by which actual market prices exceed a schedule of floor prices as set forth in the RSA. To the extent floor prices exceed actual prices, eighty percent of the negative differences will be credited against future payment obligations under the RSA. Under no circumstances will NYSEG be required to make payments under the RSA.

GPU, Inc. et al. (70-9885)

GPU, Inc. ("GPU"), a registered public-utility holding company, 300 Madison Avenue, Morristown, New Jersey 07960, and Jersey Central Power & Light Company ("JCP&L"), a public-utility subsidiary of GPU, 2800 Pottsville Pike, Reading, Pennsylvania 19605, have filed an application-declaration with the Commission under sections 6(a), 7, 9(a), 10, 12(f), and 13(b) of the Act and rules 54, 90 and 91 under the Act.

New Jersey's Electric Discount and Energy Competition Act, P.L. 1999, c. 23 (N.J.S.A. 48:3-49 *et seq.*) ("Competition Act") introduced competition into the New Jersey electric generation market. Under the Competition Act, utilities were required to submit restructuring plans to the New Jersey Board of Public Utilities ("BPU") that included their claims of stranded costs. In July of 1997, JCP&L filed its restructuring plan with the Board. The restructuring plan was the subject of extensive hearings and negotiations, and a settlement was reached and approved by the BPU by a summary order dated May 24, 1999 and a detailed final decision and order dated March 7, 2001 (collectively, "BPU Orders"). In the BPU Orders, the BPU identified up to \$400 million in recoverable JCP&L stranded costs and \$20 million in associated transaction costs (collectively, "Stranded Costs"). The Competition Act facilitates restructuring by empowering the BPU to authorize a requesting utility to issue transition bonds, directly or indirectly, to recover and/or finance a portion of its stranded costs and to assist in achieving compliance with the rate reduction requirements of the Competition Act.³ The Stranded Costs identified and approved by the BPU will be recovered from distribution utility customers, through a non-bypassable market transition charge.

Applicants request authority for GPU and JCP&L to acquire, indirectly and directly, respectively, all of the common equity interests in a new company ("SPE") to be organized for the sole purpose of issuing and selling transition bonds. JCP&L will capitalize the SPE through direct contribution of capital in an amount equal to at least .5% of the total principal amount of the transition bonds.

Applicants also request authority for the SPE to issue and sell up to an aggregate amount of \$420 million in transition bonds through December 31,

2002 ("Authorization Period"). The transition bonds would be debt securities of the SPE, not of the State of New Jersey or JCP&L. The interest rate on the proposed bonds would not exceed 300 basis points over the applicable U.S. mid-market swap benchmark, and all of the bonds would mature within seventeen years.

Applicants request authority for the SPE to, through the Authorization Period, enter into interest rate swaps or other derivative products (collectively, "Derivative Transactions").⁴ Derivative Transactions would be used to convert all or a portion of the transition bonds bearing a floating interest rate ("Floating Rate Transition Bonds") to fixed rate obligations. The SPE would enter into Derivative Transactions with counterparties whose senior debt ratings, or the senior debt ratings of the parent companies of the counterparties, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB, or an equivalent rating from Moody's Investors Service, Inc., or Fitch IBCA, Duff & Phelps ("Authorized Counterparties"). The notional amount of the swaps and the expected average life of the swaps would not exceed that of the underlying Floating Rate Transition Bonds.

Applicants also request authority for JCP&L to enter into hedging transactions through the Authorization Period with respect to anticipatory debt issuances ("Anticipatory Hedges"), including: (1) A forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury obligations and/or a forward swap ("Forward Sale"); (2) a purchase of put options on U.S. Treasury Obligations ("Put Options Purchase"); (3) a Put Options Purchase in combination with a sale of call options on U.S. Treasury obligations ("Zero Cost Collars"); (4) transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations; or (5) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars, appropriate for the Anticipatory Hedges. JCP&L would enter into Anticipatory Hedges with Authorized Counterparties. Anticipatory Hedges would be executed on-exchange ("On-Exchange Trades") with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade, the opening of over-the-counter positions with one or more counterparties ("Off-Exchange Trades"),

or a combination of On-Exchange Trades and Off-Exchange Trades. All open positions under Anticipatory Hedges would be closed on or prior to the date of the issuance of the transition bonds. JCP&L would comply with existing and future financial disclosure requirements of the Financial Accounting Standards Board associated with hedging transactions, and all Anticipatory Hedges would qualify for hedge accounting treatment under generally accepted accounting principles.

Further, Applicants request authority for JCP&L to enter into a service agreement ("Service Agreement") with the SPE that may not comply with the at-cost requirements of section 13(b) of the Act and rules 90 and 91 under the Act. The Service Agreement provides for the utility to service the transition bonds revenue stream by, among other things, billing customers and making collections on behalf of the SPE, and obtaining from the BPU periodic adjustments to the TBC that allow for payment of all debt service and full recovery of the authorized amounts.⁵ For its services, JCP&L will receive a fee and be reimbursed for certain of its expenses. The fee, set an amount equal to a fixed percentage of the initial principal amount of the transition bonds, is approximately \$400,000 per year. Applicants state that the proposed fee—which approximates the fee that the SPE would have had to pay a nonaffiliate to provide these services—is designed to enhance the credit rating of the transition bonds and strengthens their position that the SPE is a "bankruptcy remote" assignee.

Applicants state that none of the proposed transactions will affect the pending merger of GPU and FirstEnergy Corp., a public utility holding company claiming exemption from registration under section 3(a)(1) of the Act by rule 2.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

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³ The Competition Act required electric utilities to reduce their rates by at least ten percent by July 31, 2002, as compared to rates in effect on April 30, 1997.

⁴ Derivative Transactions would include interest rate caps, interest rate floors and interest rate collars.

⁵ Applicants expect that the Servicing Agreement will remain in effect until the legal final maturity of the transition bonds, which will be no later than seventeen years after the date they are issued.