December 22, 2014

Hon. Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: 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

Dear Secretary Burgess:

We are writing to express opposition to the proposed ratepayer subsidy for the Ginna nuclear reactor through the form of a reliability support services agreement (RSSA) between Exelon and Rochester Gas and Electric (RG&E). We are concerned that the process that lead up to the PSC’s order for contract negotiations to commence was premature, given the lack of transparency in the underlying facts of this proceeding and the process itself. We request a number of procedural remedies to ensure that going forward, the proceeding serves the public interest.

Alliance for a Green Economy is a coalition of grassroots environmental and social justice organizations working together to promote a carbon-free, nuclear-free energy system in New York. Collectively, our leadership has decades of experience in New York’s energy issues, particularly in the arena of nuclear power.

The proposed RSSA is likely to place an enormous economic burden on Rochester-area ratepayers. Before ratepayers are forced to subsidize Ginna, we call on the PSC to carefully consider whether Exelon has met the requirements necessary to win even a temporary RSSA, and to ensure an exhaustive search for alternatives. We agree with other parties who have filed comments and motions to dismiss this case arguing that the proper procedure has not been followed. We further question the reliability study performed by NYISO at Exelon’s request, and we argue that the RG&E request for proposals (RFP) does not represent a satisfactory or timely search for alternatives.

Since Exelon has not yet publicly stated how much the reactor will cost to maintain, we performed an analysis with the help of the Nuclear Information and Resource Service (NIRS) based on Ginna’s reported losses, the previous Power Purchase Agreement between Ginna and RG&E, and current market prices. Though this crude accounting is no substitute for a definitive declaration by Exelon on how much of a subsidy it is seeking, or an investigation by the PSC into Ginna’s finances to ensure Exelon’s claims are not overblown, we believe it serves the public interest to provide our calculations so as to highlight the enormous potential impact of the proposed RSSA on the Rochester area and RG&E customers.

Alliance for a Green Economy
agreeenewyork.org

2013 East Genesee Street
Syracuse, NY 13210
315.480.1515
info@agreeenewyork.org
Our analysis suggests that Ginna will likely request a contract approximately $80 million per year greater than the market cost of electricity to make up the difference between its operating costs and market prices. This means that on average, RG&E’s 370,000 ratepayers would pay an extra $216 per year. If Exelon also insists on some type of return on investment for the plant, the requested subsidy could be much more. This is an extraordinary amount of money to be demanded of ratepayers to prop up a private company that has become uncompetitive in the market. The attached appendix details how we arrived at these numbers.

Nationally, NIRS and Alliance for a Green Economy have been at the forefront of analyzing and exposing the economic issues challenging the nuclear industry and the deceptive strategies undertaken by nuclear companies to shore up their bottom lines. In the case of the proposed RSSA for Ginna, we believe Exelon is attempting to back the PSC and RG&E into a corner by sidestepping a transparent process by which state regulators, energy planners and the public can inform themselves as to the true reliability needs in the Rochester area and take the time needed to consider affordable and cleaner alternatives. The rushed nature of this proceeding, including the poor promotion and tight deadline of RG&E’s request for proposals (RFP) seeking alternatives, only plays into Exelon’s hands at enormous public expense.

The PSC should not put Exelon’s interests before the public interest, and should use all available authority to resist any attempts by Exelon to rush the process. As highlighted by other parties in this case, the PSC has the authority to enforce the 6-month notification of intention to retire rule, and the Commission should use that authority so that there is adequate time for a full and transparent process.

We understand the RSSA is already under negotiation, so we request that the PSC delay a decision on whether to approve the contract until the following conditions have been met. These conditions are necessary to ensure transparency, accountability and fairness in this proceeding:

A clear and reasonable timeline must be established for the proceeding going forward that ensures maximum public information and public participation. Beyond the January 15, 2015 deadline for the filing of the RSSA, no information has been provided about the Commission’s intended process moving forward. Will there be a public comment period established and public hearings scheduled to allow the public to weigh in on the proposed contract? We take this opportunity to request the establishment of a 90-day public comment period upon filing of the proposed RSSA, and that at least one public hearing be held in the City of Rochester where the majority of affected ratepayers reside.

The PSC must require more details from NYISO concerning the reliability study so the public can have a clear understanding of whether there is a real reliability problem that would justify a substantial subsidy for Ginna. There is reason to question the NYISO reliability study (discussed below). If the PSC does not make intervener funds available for this case so that groups can afford an independent analysis of the reliability issues claimed by Exelon, the Commission should at least establish a process by which parties can gain answers to questions about the study and request further investigation by NYISO. The NYISO should be working for all parties equally, not just Exelon.

The PSC must require a commitment by Exelon that without an RSSA, they intend to retire and decommission Ginna so that ratepayers can be assured they are not unduly subsidizing the
reactor. In the event an RSSA is approved for Ginna, Exelon must commit to closing the reactor at the end of the contract term so that proper planning can be undertaken to replace Ginna and avoid future ratepayer subsidies.

The PSC should consider establishing accountability measures so that ratepayers are not forced to pay for RG&E’s failure to plan for this predictable and foreseeable power plant retirement. The economic losses at Ginna were predicted for a year and a half before Exelon made its request for the RSSA. In January 2013, Ginna was discussed by UBS as very vulnerable to economically motivated early retirement. A subsequent report by Morningstar in November 2013 also discussed the likelihood that Ginna would close. NYISO and RG&E both evidently knew that Exelon was considering retirement of Ginna in the spring of 2014, when they were requested by Exelon to perform a reliability study. Yet, RG&E did not issue an RFP for alternatives until November 2014, the last possible moment before an above-market contract was to be negotiated. Why was no RFP issued earlier?

As ratepayer advocates we must ask how it is possible, given all the information they had, that RG&E and NYISO failed to proactively plan for the very obvious possibility that Ginna would retire? We must also ask how it is now fair for Rochester-area ratepayers to solely bear the economic costs of this failure. When RG&E can pass the costs of an RSSA on to consumers, it has little incentive to avoid these undue costs through proactive planning and timely consideration for alternatives. If a RSSA is authorized, RG&E must be required to pay a substantial portion of the above-market costs. Otherwise, RG&E has no forward-going incentive to resolve its deficiencies in system planning and investment. As the agency tasked with utility regulation, we urge the PSC to examine this issue and establish accountability measures for this case and for the future.

We believe these requests would serve the public interest for the following reasons:

1. The process for this case has thus far been obscure, both to the parties and the public. Thus far, parties have not been notified through the distribution list about deadlines for motions or comments, nor were they notified about the 45-day public comment period established in July. Parties were not given an opportunity to develop the record through technical conferences or hearings. Though several parties submitted motions to dismiss Ginna’s petition, no notification was provided to parties through the distribution list that the Commission was set to rule on those motions. Further, no notice about RG&E’s Request for Proposals seeking alternatives was provided to parties, and parties were not invited to comment on the scope or timeline of the RFP.

Public interest organizations and ratepayers are already at a disadvantage in this proceeding due to the enormous resource disparities and the lack of intervener funds for cases such as this. Without a clear process, proper notification about deadlines, and reasonable time afforded for public education and participation, environmental and ratepayer advocates cannot hope to meaningfully participate.

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2 http://www.forbes.com/sites/jeffmcmahon/2013/11/07/6-nuclear-plants-that-may-be-next-to-shut-down
2. **The reliability study submitted by Exelon leaves many questions unanswered.** The reliability study was performed by NYISO at the request of Exelon, and the public and other market players were left in the dark. Presumably, Exelon was the only entity other than NYISO that had input on the scope and structure of the study. It is egregious for NYISO to perform a study that serves the interests of a for-profit corporation without any kind of public accountability or input on the scope. NYISO does not work for Exelon (though two of its trustees, including the Chair of the Board, served substantial portions of their careers at Exelon). NYISO’s resources should be available to all parties in the case, particularly those working in the public interest, instead of corporate interests.

The NYISO study does not consider alternatives or discuss possible replacement strategies for Ginna, which leaves a huge hole in the record of this proceeding. We currently have no way to know what options may be available in the short or medium term.

Aside from the fact that the study does not examine potential alternatives and their costs, we question the NYISO study’s assumptions about peak load growth. The NYISO study assumes peak demand will rise in 2015 and continue to rise through 2018. This assumption bucks the recent downward trend in peak demand for the RG&E service territory, which according to reports from the utility company, has declined for the last three consecutive years. RG&E peak demand has decreased by almost 14% from a record 1,752 MW in 2011 to 1,508 MW in 2014. However the NYISO study cited an RG&E forecast of 1,955 for 2018, which would be a 447 MW (30%) increase over the next four years. The projected peak load growth represents about three quarters of Ginna’s output. If the downward trend in peak demand were to continue, or even if peak demand remained relatively stable, the supposed need for Ginna’s output is highly questionable.

The NYISO reliability study does not explain why it forecasts peak demand increasing contrary to recent trends. This warrants investigation, especially given the investments RG&E has been making into energy efficiency and demand response programs. It seems reasonable from our vantage point to assume demand will continue to decline. For example, RG&E along with NYSEG issued its 9th Round of Block Bidding for Non-residential energy savings totaling 8,489,000 kWh in Oct. 2014. Additionally, Rochester is one of five NY cities participating in a Master Planning process to identify additional energy efficiency improvements for the future. And the PSC’s Reforming the Energy Vision (REV) proceeding promises even deeper cuts to peak demand.

The study also leaves other questions unanswered. For instance, the study does not clarify how many hours or days the supposed reliability issues would exist without Ginna, and to what extent those could be mitigated by more cost-effective demand side management resources. It is also unclear whether the reliability issues would exist under normal conditions, or whether they would only exist during emergencies, like during other power plant outages. This kind of

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information is necessary for the development of a clear record and for the consideration of alternatives.

3. **The process to consider alternatives to the enormous ratepayer subsidy under consideration has been too brief to be meaningful, especially given how little is known about the true reliability needs.** Given how expensive the cost of the Ginna RSSA is likely to be, the deadline for proposals in response to the RFP issued by RG&E was woefully inadequate. Essentially, the search for alternatives was conducted in less than seven weeks. This does not inspire confidence that the PSC or RG&E are doing everything in their power to protect ratepayers from unduly paying exorbitant rates. We do not believe the RFP was adequately publicized. We could not even find a copy of it on RG&E’s website or anywhere on the web. We had to specifically request a copy from the Public Service Commission.

4. **Exelon has not committed to closing Ginna in the absence of a contract, nor has it committed to closing Ginna at the end of a contract term.** This leaves ratepayers exposed to the possibility of subsidizing a plant that has not proven a need of a subsidy, and it precludes market certainty for future replacement strategies. The cost of operating nuclear reactors like Ginna are not likely to go down. Instead, these costs may very well rise as Ginna ages. Additionally, there are hidden costs borne by society at large in the form of public insurance, exposure to routine and accidental radiological releases, risks of catastrophic meltdown, water usage, and radioactive waste management.

If ratepayers are to be forced to subsidize this plant further, they deserve to know for sure that they are doing so because of a true reliability need. As many other parties have pointed out, without a commitment by Ginna’s owners that the plant would shut down without a subsidy, there is no public protection against a false claim. Ginna’s owners should be required to prove they are not fishing for an unneeded subsidy. While we are not disputing that Ginna is losing money, we are requesting that the PSC require Ginna to prove that it will cease operating without a ratepayer subsidy instead of taking a loss while they hope market conditions change. Exelon is reportedly also losing money at multiple other reactors, but is choosing to operate those other reactors at a loss instead of asking other states for RSSAs.

In the event the PSC does award Ginna an RSSA, a condition of the RSSA must be that Exelon commit to decommissioning Ginna at the end of that contract term. Such a commitment will ensure that planning proceed to replace Ginna and relieve ratepayers of the RSSA burden in the future. Another condition of the RSSA should be a transparent and community-driven decommissioning process that guarantees a rapid and orderly cleanup, responsible and secure management of high-level radioactive waste, employs as many of the plant’s current workers as possible, and assists displaced workers and local communities with economic transition.

5. **The continued operation of Ginna does not serve the public interest or further environmental policy goals.** Nuclear energy is rightly not included in the state’s Renewable Portfolio Standard and is not considered a clean resource in New York. To the extent that the PSC is concerned with carbon emissions, our analysis suggests there are lower-cost ways to ensure the state’s greenhouse gas emissions goals are met. Further, the PSC has not established a policy of public subsidization of nuclear energy to meet carbon goals.
Thank you for your attention to these important matters and for your consideration of these suggestions. We look forward to future opportunities to engage in this proceeding.

Sincerely,

/s/
Jessica Azulay
Program Director
Alliance for a Green Economy
Appendix A: Estimates of Ginna Operating Cost and Ratepayer Subsidies

Prepared by Alliance for a Green Economy and Nuclear Information and Resource Service.

To determine an estimated cost for the above-market contract sought by Exelon, we first estimated the average per megawatt hour cost received by Exelon during the last two years under the terms of the recently expired Power Purchase Agreement (PPA) and 2012-13 market prices. We then added the per megawatt hour shortfall that Exelon cited in its petition, and arrived at an estimated per megawatt hour cost of operating Ginna. Finally, we calculated the difference between the estimated cost of operating Ginna and the recent average market price of electricity to determine the estimated cost of the subsidy that will be requested by Exelon.

Estimating the Average Cost of Electricity Paid to Ginna 2012-2013

An average price in the period of the PPA was computed based on the contractual pricing structure, using the following method:

1. Start with a base electricity PPA price (in dollars per megawatt hour (MWh)).
2. Average the price adjustment factor, which varied by month and peak and off-peak hours of the day.
3. Multiply the base price by the average adjustment factor to compute an average electricity price under the PPA.

<table>
<thead>
<tr>
<th>PPA Base Price</th>
<th>$41.65/MWh</th>
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<tr>
<td>PPA Adj. Factor</td>
<td>1.07472222</td>
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<tr>
<td><strong>Average PPA Price</strong></td>
<td><strong>$44.7622</strong></td>
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4. Calculate the average wholesale market price of electricity in the Rochester metro area (using Day-Ahead Location Based Market Price (LBMP) in NYISO Zone B).

<table>
<thead>
<tr>
<th>Average Wholesale Market Price</th>
<th>$31.98/MWh (2012)</th>
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<tbody>
<tr>
<td></td>
<td>$37.45/MWh (2013)</td>
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5. Compute the average commodity price for Ginna’s electricity through a weighted average of the contract price (90%) and the wholesale market price (10%).

<table>
<thead>
<tr>
<th>Weighted Av. Price</th>
<th>$43.48/MWh (2012)</th>
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<tr>
<td></td>
<td>$44.03/MWh (2013)</td>
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<tr>
<td></td>
<td><strong>$43.76/MWh (2-year average)</strong></td>
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</tbody>
</table>
6. Convert the average capacity price from $/MW-month to $/MWh (using Exelon’s reported 95% capacity factor for Ginna).

<table>
<thead>
<tr>
<th>PPA Capacity Price (winter)</th>
<th>$1500/MW-mo.</th>
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<tr>
<td>PPA Capacity Price (summer)</td>
<td>$2200/MW-mo</td>
</tr>
<tr>
<td>Average PPA Capacity Price</td>
<td>$1850/MW-mo.</td>
</tr>
<tr>
<td>Average Cap. Price converted</td>
<td>$2.67/MWh</td>
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<tr>
<td>to megawatt hours</td>
<td></td>
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7. Add the converted capacity price to the average commodity price.

**Average Cost of Electricity 2012-2013**  $46.43/MWh

**Estimating the Price of the Above Market Contract**
Next, convert the losses reported by Exelon for 2012-2013 into a loss rate ($/MWh), and add that to the average total sale price. (In its July 11 petition to the PSC, Exelon gave very few details about its economic losses. No exact number was reported, nor was information provided about what kinds of costs were included in this figure. More information will clearly be needed, but as of now, this is the best number publicly available.)

<table>
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<tr>
<th>Reported 2012-13 Losses</th>
<th>$100 million</th>
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<tr>
<td>Loss Rate</td>
<td>$10.32/MWh</td>
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</table>

Then, add the average cost of electricity paid to Ginna to the estimated loss per MWh reported by Exelon to determine an estimated operating cost rate for Ginna.

<table>
<thead>
<tr>
<th>Cost of electricity</th>
<th>$46.43/MWh</th>
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<tbody>
<tr>
<td>Loss rate</td>
<td>$10.32/MWh</td>
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<tr>
<td><strong>Total Cost Rate</strong></td>
<td><strong>$56.75/MWh</strong></td>
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</tbody>
</table>

Thus, in order simply to meet its basic operating cost, Exelon will likely require a contract price of at least $56.75/MWh, or 66% greater ($22.53/MWh) than the average wholesale price for electricity in the Rochester area from 2012-2013 ($34.22/MWh).

**More Conservative Approaches**
To get a more conservative forward-looking estimate of the risk to ratepayers, it is useful to take a longer average of wholesale and capacity market prices (five years, 2009-2013):
The minimum contract rate RG&E ratepayers would have to pay is 43.5% ($17.21/MWh) greater than the average market price for electricity in Rochester in recent years. That would be in addition to the fact that RG&E ratepayers already paid more than a 17% premium ($6.89/MWh) for Ginna’s electricity from 2012-2013.

This methodology yields a conservative estimate of the revenues Exelon derived from Ginna for two reasons:

- Plant operators plan maintenance and refueling outages for times of the year when electricity prices are lowest. By averaging prices uniformly across the two-year period, we likely underestimate the average price Exelon was paid for the periods when the reactor was actually operating.
- Ginna was shut down for its two-year refueling during 2012, when market prices were lower than in 2013. Ginna would have earned a greater amount of market revenue during the 2012-2013 period estimated.

Over the course of a year, the contract would entail a cost RG&E ratepayers of an additional $83,332,637, at Ginna’s rated output (581 MW) and the reported average annual capacity factor (95%), just to cover the operating costs of Ginna. However, Exelon’s petition suggests that it may require a rate that guarantees it a profit (return on investment) in order to justify continuing to operate Ginna. If so, the contract might end up in the $60-65/MWh range, which would raise the subsidy cost to ratepayers to between $99 million and $123 million/year. Over the 3.75 year period for which Exelon is seeking the contract (January 2015-October 2018), the subsidy from ratepayers would be in the range of $312 million to as much as $473 million if Exelon is permitted a return on investment. On average, that would be an additional cost of $844-$1,278, for each of RG&E’s 370,000 customers.

In case the winter market price volatility exhibited in 2013 and 2014 were to become a trend, the cost to ratepayers can be estimated even more conservatively by including a year of peak electricity prices. The average market price for the 2008-2012 period was a bit higher than 2009-2013, at $42.27/MWh. The average capacity market price was $1.48/kW-month, or $2.14/MWh for Ginna, totaling $44.41/MWh. If market electricity prices reflect the 2008-2012 period instead of the most recent period, the ratepayer subsidy for Ginna would be lower, due to a smaller difference between market rates and Ginna’s operating costs. In this scenario, the ratepayer subsidy would decrease by $12.54/MWh, or $59,761,865/year, or $229 million over the term of the contract. Factoring a return on investment for Exelon, the cost to ratepayers would range from $75 million to $100 million per year, for a total cost of $289-382 million over the term of the contract. The cost to ratepayers would average $619-$1,032 per customer.

<table>
<thead>
<tr>
<th>Wholesale Price</th>
<th>$37.06/MWh</th>
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<tr>
<td>Capacity Price</td>
<td>$1.72/kW-month</td>
</tr>
<tr>
<td>Capacity Rate</td>
<td>$2.48/MWh</td>
</tr>
<tr>
<td>Total Market Price</td>
<td>$39.54/MWh</td>
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