



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 1, 2014

EA-11-267

Mr. Michael J. Pacilio
Senior Vice President
Exelon Generation Company, LLC
President and Chief Nuclear Officer (CNO)
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: OYSTER CREEK; DRESDEN UNITS 1, 2 & 3; QUAD CITIES UNITS 2 & 3; CLINTON; PEACH BOTTOM UNITS 1, 2, & 3; LIMIRICK UNITS 1 & 2; THREE MILE ISLAND 1; LASALLE COUNTY UNITS 1 & 2; BYRON UNITS 1 & 2; BRAIDWOOD UNITS 1 & 2; SALEM UNITS 1 & 2; ZION 1 & 2 – RE: U.S. NUCLEAR REGULATORY COMMISSION OFFICE OF INVESTIGATIONS INVESTIGATION; SUMMARY OF OI REPORT NO. 3-2010-034; NRC INSPECTION REPORT 05000456/2012012, 05000457/2012012, 5000454/2012012, 05000455/2012012, 05000461/2012012, 5000010/2012012, 05000237/2012012, 05000249/2012012, 05000373/2012012, 000374/2012012, 05000352/2012012, 05000353/2012012, 05000219/2012012, 000171/2012012, 05000277/2012012, 05000278/2012012, 05000254/2012012, 000265/2012012, 05000272/2012012, 05000311/2012012, 05000289/2012012, 000295/2012012, 05000304/2012012

Dear Mr. Pacilio:

The purpose of this letter is to provide you with the final results of an apparent violation identified with respect to Exelon Generation, LLC's (Exelon) biennial decommissioning funding status (DFS) reports submitted to the Nuclear Regulatory Commission (NRC) for reporting years 2001, 2002, 2003, 2005, 2006, 2007, 2009, and 2011¹.

On April 30, 2013, a predecisional enforcement conference was conducted at NRC Headquarters in Rockville, Maryland, with members of your staff to discuss the apparent violation, its significance, its root causes, and its corrective actions.

Based on the information developed during the investigation (Office of Investigations Report No. 3-2010-034), in office reviews of the DFS reports, and the information that you provided during the conference, the NRC has determined that a violation of NRC requirements occurred. This violation is cited in the enclosed Notice of Violation and the circumstances surrounding it is described in detail in the factual summary of the investigation provided to you on January 31,

¹ 10 CFR 50.75(f)(2) requires Exelon to report at least once every 2 years after 1999, on the status of its decommissioning funding for each reactor or part of a reactor that it owns. Exelon submitted biennial reports to the NRC for the years 2001, 2003, 2005, 2007, 2009, and 2011. Exelon was involved in a license transfer during 2002 and 2005 – 2006 and for this reason was required to submit a DFS report in March 2002 and March 2006.

2013 (Agencywide Document Access Management System Accession (ADAMS) No. ML13008A219).

The NRC concluded that Exelon provided incomplete and inaccurate information in biennial DFS reports for reporting years 2005, 2006, 2007, and 2009. Specifically, Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.75 establishes requirements for indicating to the NRC how a licensee will provide reasonable assurance that funds will be available for the decommissioning process. For power reactor licensees, reasonable assurance consists of a series of steps as provided in paragraphs (b), (c), (e), and (f) of 10 CFR 50.75.

10 CFR 50.75(f)(2) requires licensees to report the status of its decommissioning funding for each reactor (or part of a reactor) that it owns at least every other year. The information in this report must include the amount of decommissioning funds estimated to be required pursuant to 10 CFR 50.75(b) and (c). Exelon provided numbers in the reports submitted on March 31, 2005, March 24, 2006, March 21, 2007, and March 31, 2009 that were lower than the NRC minimum allowable amount, as required by 10 CFR 50.75(b) and (c).

The violation did not result in an actual safety consequence. The issue was viewed as potentially significant because it impacted the NRC's ability to perform its regulatory function related to decommissioning funding assurance. The NRC initially considered escalated enforcement for this violation, in accordance with the Enforcement Policy. However, after a detailed review of all available information, the agency determined that this violation is best characterized at Severity Level IV based on the lack of actual safety consequences and the fact that the potential safety consequences were minimal because the decommissioning funding regulations require regular adjustments to the estimates and funding levels over the operating life of the reactor. Additionally, the NRC found insufficient evidence to support a conclusion that Exelon officials acted willfully.

After careful consideration of the information related to this issue, the NRC maintains that the problems caused by Exelon's submission of incomplete and inaccurate information were avoidable. While the NRC determined that Exelon demonstrated reasonable assurance for decommissioning, the submittal of incomplete and inaccurate material information, contrary to 10 CFR 50.9, resulted in the NRC staff expending significant resources to determine how Exelon was calculating the required decommissioning funds and meeting the requirements of 10 CFR 50.75. Had Exelon been more forthcoming with respect to information in DFS reports, this additional effort could have been precluded. Therefore, this violation of 10 CFR 50.9, is cited in the enclosed Notice of Violation.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in the information you provided at the PEC on April 30, 2013 (ADAMS Accession No. ML13129A081). Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and any response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you have any questions concerning this matter, please contact Carleen Sanders, of my staff, at 301-415-1603.

Sincerely,



Ho K. Nieh, Director
Division of Inspection & Regional Support
Office of Nuclear Reactor Regulation

Enclosure:
Notice of Violation

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and any response, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such information, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you have any questions concerning this matter, please contact Carleen Sanders, of my staff, at 301-415-1603.

Sincerely,

/RA/

Ho K. Nieh, Director
 Division of Inspection & Regional Support
 Office of Nuclear Reactor Regulation

Enclosure:
 Notice of Violation

DISTRIBUTION: See next page

ADAMS Accession No: ML14105A163

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NOTICE OF VIOLATION

Exelon Generation Company, LLC
Oyster Creek; Dresden Units 1, 2 & 3;
Quad Cities Units 2 & 3; Clinton; Peach
Bottom Units 1, 2, & 3; Limerick Units 1 & 2;
Three Mile Island 1; LaSalle County Units 1 & 2;
Byron Units 1 & 2; Braidwood Units 1 & 2;
Salem Units 1 & 2; Zion Units 1 & 2

Docket Nos. 05000219, 0500010,
05000237, 05000249,
05000254, 5000265,
05000461, 5000171,
05000277, 000278,
05000289, 05000352,
05000353, 5000373,
05000374, 5000454,
05000455, 5000456,
05000457, 5000272,
05000311, 5000295,
05000304

License Nos.
DPR-16, DPR-2,
DPR-19, DPR-25,
DPR-29, DPR-30,
NPF-62, DPR-12,
DPR-44, DPR-56,
NPF-39, NPF-85,
DPR-50, NPF-11,
NPF-18, NPF-37,
NPF-66, NPF-72,
NPF-77

EA-11-267

During an NRC investigation completed on November 22, 2011, and a supplemental investigation completed on October 10, 2012, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 50.75(a) establishes requirements for indicating to the NRC how a licensee will provide reasonable assurance that funds will be available for the decommissioning process and states that for power reactor licensees, reasonable assurance consists of a series of steps as provided in paragraphs (b), (c), (e), and (f) of 10 CFR 50.75.

10 CFR 50.75(f)(2) states, in part, that power reactor licensees shall report at least every 2 years on the status of its decommissioning funding for each reactor or part of a reactor that it owns; and, that the information in this report must include, at a minimum, the amount of decommissioning funds estimated to be required pursuant to 10 CFR 50.75(b) and (c).

10 CFR 50.75(b)(1) states, in part, that for a holder of an operating license under 10 CFR Part 50, financial assurance for decommissioning shall be provided in an amount which may be more, but not less, than the amount stated in the table in paragraph (c)(1) adjusted using a rate at least equal to that stated in paragraph (c)(2).

10 CFR 50.75(c)(1) states the minimum amount required to demonstrate reasonable assurance of funds for decommissioning by reactor type and power level. 10 CFR 50.75(c)(2) requires, in part, that an adjustment factor be applied, which is based on

escalation factors for labor and energy, and waste burial.

10 CFR 50.9(a) states, in part, that information provided to the Commission by a licensee shall be complete and accurate in all material respects.

Contrary to the above, on March 31, 2005, March 31, 2006, March 31, 2007, and March 31, 2009, Exelon Generation Company, LLC (Exelon) provided information on the status of its decommissioning funding that was not complete and accurate in all material respects, when it submitted the decommissioning funding status (DFS) reports pursuant to 10 CFR 50.75. Specifically, the March 31, 2005, March 31, 2007, March 31, 2006, and March 31, 2009, DFS reports stated that the decommissioning funds estimated to be required for each of the reactors, as listed in the report, were determined in accordance with 10 CFR 50.75(b) and the applicable formulas of 10 CFR 50.75(c). However, in multiple instances, the amount reported was a discounted value that was less than the minimum required amount specified by 10 CFR 50.75(b) and (c).

This is a Severity Level IV violation. (Section 6.9)

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in the information you provided at the predecisional enforcement conference on April 30, 2013. This document is available from the Agencywide Documents Access Management System (ADAMS) at Accession No. ML13129A081. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-11-267" include the Enforcement Action number, and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Office Director, Office of Nuclear Reactor Regulation, and a copy to the NRC resident inspector at those facilities still owned by Exelon that are the subject of this Notice and which have resident inspector staffs, and a copy to the Office of Federal and State Materials and Environmental Management Programs project managers for those facilities that do not have resident inspector staffs, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Dated this 01 day of May 2014.