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July 27, 2001

Mr. Joseph M. Sebrosky  
Project Manager, Future Licensing Organization  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Mail Stop O-11 F1  
Washington, D.C. 20555-0001

Subject: Comments on Whether Combined License Applications Should Contain  
Programmatic Inspections, Tests, Analyses and Acceptance Criteria

Dear Mr. Sebrosky:

Exelon submits these comments in response to the Nuclear Regulatory Commission's (NRC) June 25, 2001, request for public comments (i.e., 66 Fed. Reg. 33718) on whether combined construction and operating license (COL) applications should contain inspections, tests, analyses and acceptance criteria on operational programs (programmatic ITAAC). We fully support the Nuclear Energy Institute's (NEI) May 14, 2001, letter and accompanying paper on this matter and agree that programmatic ITAAC in COLs would be inconsistent with the objectives of the Energy Policy Act of 1992 and the Atomic Energy Act, disregard Congress' intent behind ITAAC, and duplicate existing regulation over NRC licensees. Furthermore, as discussed in NEI's paper, programmatic ITAAC are unnecessary to safety, and the NRC has preferable alternatives for ensuring the adequacy of a licensee's programs.

Additionally, programmatic ITAAC would unnecessarily impede the development and construction of new nuclear reactors, including the pebble bed modular reactor (PBMR) being developed by Exelon. One of the fundamental purposes of ITAAC is to increase the certainty of companies building nuclear plants by informing them of the conditions that must be satisfied before construction begins and by providing regulators with objective safety standards with which to measure whether as-constructed plants are safe to operate. Adding programmatic ITAAC to the COL process would ignore this purpose. Programmatic ITAAC would be unavoidably subjective and would not focus on the as-constructed plant.

In particular, Exelon is concerned that programmatic ITAAC could act as a disincentive to the development and licensing of a PBMR. The PBMR represents the latest advancement in nuclear plant design. If programmatic ITAAC were included in COLs, the economic feasibility of this advanced and safer technology would be impacted. Given their inherent subjectivity, programmatic ITAAC could significantly prolong and inject uncertainty into the process under

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which the Commission authorizes the operation of nuclear plants pursuant to 10 C.F.R. § 52.103. This would create doubt among investors with regard to the economic viability of the project.

For the foregoing reasons, Exelon supports NEI's letter and accompanying paper and opposes incorporating programmatic ITAAC into COLs. Programmatic ITAAC will create an unnecessary and inherently subjective layer of regulation. In order to proceed with applications for new plants, Exelon and other potential applicants for new nuclear plants must know that the NRC's regulations will set forth a predictable and objective licensing system. Accordingly, the Commission should reject the concept of programmatic ITAAC.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. A. Hutton for".

James A. Hutton  
Director - Licensing