

October 3, 2001

Mr. Oliver D. Kingsley, President
Exelon Nuclear
Exelon Generation Company, LLC
1400 Opus Place, Suite 500
Downers Grove, IL 60515

SUBJECT: NOTICE OF ENFORCEMENT DISCRETION FOR EXELON GENERATION COMPANY, LLC, REGARDING BYRON STATION, UNIT 1 (TAC NO MB2998, NOED NO. 01-6-003), BYRON STATION, UNIT 2 (TAC NO. MB2999, NOED NO. 01-6-004) AND BRAIDWOOD STATION, UNIT 2 (TAC NO. MB2997, NOED NO. 01-6-005)

By letter dated October 1, 2001, you requested that the NRC exercise discretion not to enforce compliance with the actions required in Byron Station, Unit 1 and 2, and Braidwood Station, Unit 2, technical specification (TS) 3.7.2, "Main Steam Isolation Valves" (MSIV). TS 3.7.2 requires four MSIVs to be operable. Surveillance Requirement (SR) 3.7.2.1 verifies the closure time of each MSIV is less than or equal to 5 seconds with a frequency in accordance with the Inservice Testing Program. Your letter documented information previously discussed with the NRC in a telephone conference on September 27, 2001, at 10:37 a.m. CDT (11:37 a.m. EDT). The principal NRC staff members who participated in that telephone conference included Anthony Mendiola, Section Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation (NRR), and members of the NRR staff; and Geoffrey Grant, Director, Division of Reactor Projects (DRP), Region III, and members of his staff. You stated that on September 27, 2001, 4:00 p.m. CDT (5:00 p.m. EDT), the plants would not be in compliance with SR 3.7.2.1 and SR 3.7.2.2, which would require Braidwood Station, Unit 2, and Byron Station, Units 1 and 2, to be in Mode 3 within the next 7 hours. You requested that a Notice of Enforcement Discretion (NOED) be issued pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.C. of the "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, and be effective for the period until the first startup after September 27, 2001. This letter documents our telephone conversation on September 27, 12:05 p.m. CDT (1:05 p.m. EDT) when we orally issued this NOED.

While reviewing the Surveillance Requirements section of the Bases for SR 3.7.2.1 and SR 3.7.2.2 in support of Braidwood Station, Unit 1 refueling outage activities, you discovered that the existing surveillance procedures were inconsistent with the TS Bases. The TS Basis for SR 3.7.2.1 states, "This test is conducted in Mode 3 with the unit at operating temperature and pressure. This SR is modified by a Note that allows entry into and operation in Mode 3 prior to performing the SR. This allows a delay of testing until Mode 3, to establish conditions consistent with those under which the acceptance criterion was generated." Additionally, the Surveillance Requirements section of the Bases for SR 3.7.2.2 states, "This SR is modified by a Note that allows entry into and operation in Mode 3 prior to performing the SR. This allows a delay of testing until Mode 3, to establish conditions consistent with those under which the acceptance criterion was generated." During start-up following the last refueling outages at Braidwood Station, Unit 2, and Byron Station Units 1 and 2, SR 3.7.2.1 and SR 3.7.2.2 were

performed in Mode 4 and not in Mode 3 as required by the TS. The existing surveillance procedures for SR 3.7.2.1 and 3.7.2.2 allow testing in Mode 3, 4, or 5.

During the conversion to the Improved Technical Specifications (ITS), the TS Bases were enhanced to clarify the intent of these SRs. Previously, the TS included the statement that, "The provisions of Specification 4.0.4 are not applicable for entry into Mode 3." The purpose of this statement was to allow entry into the Mode of Applicability, i.e., Mode 3, to perform the SR. However, this statement did not necessarily preclude performing the SR prior to reaching Mode 3. The TS Bases were revised during the ITS conversion to specify that the SR must be conducted in Mode 3 with the units at operating temperature and pressure. The Bases were enhanced to clarify that the purpose of performing the SR at operating temperature and pressure is to establish conditions consistent with those under which the acceptance criteria was generated. As stated in the ITS conversion documentation, this enhancement was intended to be merely a reformatting of existing requirements, no technical change was intended to be made. The judgement that the clarification was administrative in nature was based on the understanding that taking exception to the provisions of Specification 4.0.4 allowed testing to be performed in Mode 3 under similar conditions as assumed in the safety analyses. However, the clarification specifically requires the plants to be in Mode 3 at operating temperature and pressure to perform the SRs, which is a technical change. An extent of condition review of similar actions was performed. A preliminary review has not identified any other instances of noncompliance, and a more comprehensive review will be performed.

You requested a Notice of Enforcement Discretion (NOED) from SR 3.7.2.1 and 3.7.2.2 be approved in order to continue operation of Byron Station, Units 1 and 2, and Braidwood Station, Unit 2, to avoid cycling the units through a thermal transient. A shutdown could initiate unnecessary challenges, unexpected transients and place an unnecessary thermal cycle on the primary and secondary systems. The long term integrity of the reactor vessel and other components of the primary and secondary systems can be adversely affected by the number of thermal transients they are subjected to during their lifetime. As each additional thermal transient can affect this integrity, it is prudent to avoid such transients to assure the health and safety of the public is preserved. In your evaluation, you have considered it prudent to remain at power and minimize the potential safety consequences from a shutdown thermal transient on the units. The risk associated with continued operation in this condition is considered to be less than that associated with an immediate controlled shutdown of three operating reactors.

A review was conducted of the surveillance history for stroke time testing of the MSIVs at Braidwood and Byron Stations. Included were surveillances conducted in Mode 2 through Mode 5 between 1993 and 2001. The maximum closure time was 4.5 seconds. In discussions between your staff and the original equipment manufacturer, it was concluded that a few tenths of a second variation in stroke time could be expected in valve stroke time due to testing under full steam line pressure versus testing without line pressure. Therefore, these additional tenths of a second would not result in a valve stroke outside the current specified limit.

The effect of operating in this condition for this period without demonstrating the ability to isolate the MSIVs within the required time under limiting test conditions has been conservatively assessed by your staff. This has been done by postulating that valve stroke time could be greater than previously measured. The likelihood and magnitude of such a postulated increase, and the margin available to accommodate it, have been evaluated and determined to be

acceptable. Failure to close has not been postulated due to the successful past history of fast exercise tests performed at both sites.

You have proposed the following compensatory measure: A briefing will be given to the Operating Departments to discuss this NOED, the initiating conditions, and potential impact on the MSIVs. In addition, we understand that procedures will be revised to ensure MSIV testing in Mode 3 following the first startup after September 27, 2001.

NRC staff evaluated your request, which was reviewed and approved by your Plant Operations Review Committee and agreed that sufficient justification exists to reasonably conclude that the MSIVs are fully capable of achieving the 5-second closure criteria at normal operating pressure and temperature. Performing the SR under less limiting conditions should not affect failure frequency assumed for the MSIVs. Therefore, since the failure frequency is unaffected, the results of the PRA should be unaffected by this situation. This NOED satisfies criteria B.2.1.1.a of the NOED guidance and is intended to avoid undesirable transients as a result of forcing compliance with the license condition and thus minimize potential safety consequences and operational risks.

On the basis of the staff's evaluation of your request, we have concluded that a NOED is warranted because we are clearly satisfied that this action involves minimal or no safety impact, is consistent with the enforcement policy and staff guidance, and has no adverse impact on public health and safety. Therefore, it is our intention to exercise discretion not to enforce compliance with TS 3.7.2 for the period from September 27, 2001, 12:05 p.m. CDT (1:05 p.m. EDT) until issuance of an exigent license amendment which revises SR 3.7.2.1 and SR 3.7.2.2 to add a statement regarding surveillances not required to be met until the first startup after September 27, 2001. The staff plans to complete its review and issue the license amendment within 4 weeks of the date of this letter.

As stated in the Enforcement Policy, action will be taken, to the extent that violations were involved, for the root cause that led to the noncompliance for which this NOED was necessary.

Sincerely,

/RA/

S. Singh Bajwa, Director
Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reaction Regulation

Docket Nos: STN 50-454, STN 50-455, STN 50-457

cc: See next page

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Docket Nos: STN 50-454, STN 50-455, STN 50-457

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