December 20, 2001

Mr. Oliver D. Kingsley, President
Exelon Nuclear
Exelon Generation Company, LLC
200 Exelon Way, KSA 3-E
Kennett Square, PA 19348

SUBJECT: LIMERICK GENERATING STATION, UNITS 1 AND 2, EXEMPTION FROM THE EXERCISE REQUIREMENTS OF 10 CFR PART 50, APPENDIX E, SECTIONS IV.F.2.b AND c (TAC NOS. MB3195 AND MB3196)

Dear Mr. Kingsley:

The Nuclear Regulatory Commission (NRC) has approved the enclosed schedular exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix E, Sections IV.F.2.b and c, for Limerick Generating Station (LGS), Units 1 and 2. This action is in response to your letter of October 16, 2001, that submitted your request for a one-time exemption from the requirements to conduct a full-participation exercise of the offsite emergency plan every 2 years. The NRC staff determined that a one-time schedular exemption from the requirements to conduct an exercise of the onsite emergency plan every 2 years was also necessary.

A copy of the exemption is enclosed. The exemption has been forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/

Christopher Gratton, Sr. Project Manager, Section 2
Project Directorate 1
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-352 and 353

Enclosure: Exemption

cc w/encl: See next page

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7590-01-P

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

EXELON GENERATION COMPANY, LLC

LIMERICK GENERATING STATION, UNITS 1 AND 2

DOCKET NOS. 50-352 AND 50-353

EXEMPTION

1.0 BACKGROUND

Exelon Generation Company, LLC (Exelon or the licensee), is the holder of Facility Operating Licenses Nos. NPF-39 and NPF-85, which authorize operation of the Limerick Generating Station (LGS), Units 1 and 2. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two boiling-water reactors located at the licensee's site in Montgomery County, Pennsylvania.

2.0 REQUEST/ACTION

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix E, Section IV.F.2.b requires each licensee at each site to conduct an exercise of its onsite emergency plan every two years and indicates the exercise may be included in the full-participation biennial exercise required by paragraph 2.c. of the same section. In addition, licensees are to take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills. Paragraph 2.c. requires offsite plans for each site to be exercised biennially with full participation by each offsite authority having a role under the plan. Normally during such biennial full-participation

exercises, the NRC evaluates onsite, and the Federal Emergency Management Agency (FEMA) evaluates offsite, emergency preparedness activities.

By letter dated October 16, 2001, Exelon requested an exemption from the requirements of 10 CFR Part 50, Appendix E, Sections IV.F.2.c, regarding the conduct of a full-participation exercise at LGS. The exemption would allow the licensee to postpone the biennial full-participation exercise up to the end of 2002. However, the next full-participation exercise will continue to be scheduled biennially from 2001.

Exelon is among several licensees requesting exercise exemptions in the wake of the national emergency of September 11, 2001. It is recognized that it was not appropriate to conduct an exercise during the period of disruption and heightened security after the national emergency. The State of Pennsylvania was initially involved with the recovery response to the national emergency and continues to respond to heightened security needs. Considering the extraordinary circumstances, a schedular exemption is acceptable. However, in this period of heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the full-participation exercise as soon as practical to demonstrate and maintain readiness.

The licensee is faced with a difficult task to coordinate and schedule an exercise that involves multiple governmental agencies at the Federal, State, and local level. Many local response organizations depend on volunteers. In order to accommodate this task, the NRC has allowed licensees to schedule full-participation exercises at any time during the calendar biennium. This gives the licensee the flexibility to schedule the exercise within a 12- to 36-month window and still meet the biennial requirement specified in the regulations.

It should be noted that the licensee requested relief from 10 CFR Part 50, Appendix E, Section IV.F.2.c. While the intent of the request is clear, the NRC staff determined that a schedular exemption from the onsite exercise requirements of 10 CFR Part 50, Appendix E, Section IV.F.2. b, was also necessary. The following evaluation addresses the technical issues

necessary to grant a schedular exemption from the requirements of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and c, to conduct an evaluated biennial exercise.

3.0 DISCUSSION

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2)(v) special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

The licensee was scheduled to conduct a biennial full-participation exercise on November 1, 2001. The requested exemption is to postpone that exercise and conduct it during 2002. The interval between biennial exercises could be as long as 39 months, if the exercise were conducted in December of 2002. However, the licensee stated that the rescheduled exercise is expected to take place in the first or second quarter of 2002. If the licensee does conduct the exercise within the second quarter of 2002, the period between exercises would be about 33 months and within the normal parameters of exercise conduct, in which a period of 36 months is acceptable as long as the sequential exercises are conducted within the calender biennium. However, given that other 2001 exercises in NRC Region I will be rescheduled into 2002, the licensee may have difficulty finalizing the schedule by the end of the second quarter. To reschedule this exercise, the licensee will have to coordinate with local and State supporting agencies as well as NRC Region I and FEMA Region III. This effort will be complicated by the fact that NRC and FEMA will have to support the normally scheduled exercises in addition to the rescheduled exercises during 2002. Increased flexibility may be necessary for scheduling of Federal resources more so than local or utility resources. This

being the case, a schedular exemption for conduct of the exercise within calendar year 2002 is appropriate, with the understanding that the licensee will conduct the exercise as soon as practicable.

LGS successfully conducted a full-participation exercise on September 14, 1999, which was evaluated by the NRC (Inspection Report No. 50-352;353/99-06) and FEMA (Final Exercise Report LGS 03/01/00.) The results of this exercise determined that the overall performance of the emergency response organization demonstrated that onsite emergency plans are adequate and that the organization is capable of implementing these plans. No violations of NRC requirements or exercise weaknesses were identified and the licensee stated that performance issues identified in the critique were entered into the corrective action process and addressed.

The licensee stated that subsequent to the September 14, 1999, full-participation exercise, LGS conducted emergency response training drills on June 14, 2000, June 21, 2000, October 18, 2000, November 15, 2000, December 12, 2000, February 15, 2001, May 12, 2001, and June 20, 2001. A pre-exercise drill was also conducted on September 27, 2001. The licensee stated that there was at least partial offsite participation in the June 21, 2000, November 15, 2000, December 12, 2000, June 20, 2001, and September 27, 2001, drills. In addition, emergency response training drills involving control room staff were conducted on January 20, 2000, January 27, 2000, February 3, 2000, February 10, 2000, February 17, 2000, January 12, 2001, January 19, 2001, January 26, 2001, February 2, 2001, and February 9, 2001. The licensee stated that these drills satisfy the drill requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b. The licensee stated that drill critiques verified that the emergency plan and its implementing procedures were successfully implemented. Issues identified during these drills, exercises, and associated critiques are being resolved under the station’s corrective action program.

The licensee stated that compensating measures will be taken to maintain emergency preparedness at LGS until the postponed exercise is conducted. The existing training and drill schedule currently in place for emergency response activities will remain in place and be adjusted as necessary to ensure the readiness of both onsite and offsite emergency response personnel. This includes annual training, requalification, and participation drills for onsite emergency responders. The licensee stated that these measures will be implemented to maintain an acceptable level of emergency preparedness during this period.

The Pennsylvania Emergency Management Agency (PEMA) has requested that FEMA postpone the exercise into 2002. The licensee and PEMA stated that offsite local, State, and Federal government agencies that are required to participate in the LGS biennial exercise are directly participating in the response, recovery, and other continuing activities associated with the September 11, 2001, national emergency.

The staff examined the licensee's rationale to support the exemption request and concluded that granting the exemption would provide only temporary relief from the applicable regulation and that the licensee had made a good faith effort to comply with the regulation. The national emergency of September 11, 2001, and the subsequent recovery and security responses required that State and local resources expected to be available for the previously scheduled biennial exercise be applied to agency missions. Offsite agencies were not able to dedicate the appropriate level of resources, as it would divert public agency resources from the national emergency recovery efforts. Additionally, the licensee's drill program includes offsite agency participation and is a compensating measure contributing to the justification of the exemption.

The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002) and has not requested any permanent changes in future exercise scheduling. The licensee made a

good faith effort to conduct the exercise and comply with regulations. The circumstances dictating the request for exemption are beyond the licensee's control. The regulations of this part do allow for the postponement of exercises and the regulations have been invoked for appropriate circumstances. This being the case, the occasional need to postpone exercises was considered as a potential circumstance. The staff has determined that conduct of the full-participation exercise as early as practical in 2002 is prudent even though the licensee is expected to conduct another full-participation exercise in 2003.

4.0 CONCLUSION

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present pursuant to 10 CFR 50.12(a)(2)(v), in that the exemption would only provide temporary relief from the applicable regulations, and the licensee has made a good faith effort to comply with the regulation. Therefore, the Commission hereby grants Exelon a one-time schedular exemption from the requirements to conduct an exercise of its onsite and offsite (with full-participation by each offsite authority having a role under the plan) emergency plans every 2 years as required by 10 CFR Part 50, Appendix E, Sections IV.F.2.b and c. This conclusion is based on the licensee's commitment to conduct the postponed exercise in 2002. The staff notes that the licensee expects to conduct the exercise in the first or second quarter of 2002. The staff recommends that the licensee schedule the exercise as early as practical in 2002, but the exemption is not predicated on the licensee following this recommendation.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 65231).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of December 2001.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Ledyard B. Marsh, Acting Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation