

May 16, 2002

Mr. Oliver D. Kingsley, President
and Chief Nuclear Officer
Exelon Nuclear
Exelon Generation Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE, OYSTER CREEK NUCLEAR GENERATING STATION
(TAC NO. MB5007)

Dear Mr. Kingsley:

By letter dated April 30, 2002, Mr. Jeffrey A. Benjamin of Exelon Nuclear submitted an application for exemption for the Oyster Creek Nuclear Generating Station (OCNGS). The application included an affidavit executed by Mr. Benjamin, dated April 30, 2002, requesting that the entire application be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790. Mr. Benjamin also submitted a non-proprietary version of the application for placement in the NRC public document room and addition to the Agencywide Documents Access and Management System's Publicly Available Records System (ADAMS PARS) Library.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (i) This information is and has been held in confidence by AmerGen.
- (ii) This information is being transmitted voluntarily to the NRC in confidence.
- (iii) This information is not available in public sources and could not be gathered readily from other publicly available information.
- (iv) Public disclosure of this information would create substantial harm to the competitive position of AmerGen by prematurely making public AmerGen's decisions regarding OCNGS, thereby providing information to parties whose commercial or other interests may be adverse to those of AmerGen.

We have reviewed Mr. Benjamin's affidavit in accordance with the requirements of 10 CFR 2.790. On the basis of Mr. Benjamin's statements, we have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-1451.

Sincerely,

/RA/

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-219

cc: See next page

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Project Directorate I
Division of Licensing Project Management
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Oyster Creek Nuclear Generating Station

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