

May 6, 2003

EA-03-030

Mr. John L. Skolds, President
and Chief Nuclear Officer
Exelon Nuclear
Exelon Generation Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: CLINTON POWER STATION
NOTICE OF VIOLATION - NRC INSPECTION REPORT 50-461/03-02

Dear Mr. Skolds:

This refers to the inspection conducted on January 24, 2003, at the Clinton Power Station. The purpose of the inspection was to review the circumstances surrounding your staff's failure to provide complete and accurate information to the NRC regarding pre-existing medical conditions of two initial reactor operator license candidates. On October 16, 2002, during a phone conversation between acting Operator Licensing Branch Chief, Mr. D. Pelton, and Mr. M. Helton, and following your submission on September 24, 2002, of additional medical information for the two reactor operator license candidates, your staff was notified of the need to take corrective action. In response to that telephone call, your staff generated Condition Report 127688. Inspection Report 50-461/03-02, which discussed the details of the inspection into this apparent violation, was issued on February 28, 2003.

In the letter transmitting the inspection report, we provided you the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In a letter dated March 21, 2003, your staff provided a response to the apparent violation.

Based on the information developed during the inspection and the information that you provided in your response to the inspection report dated March 21, 2003, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. On June 26, 2002, your staff provided information to the NRC regarding the medical status of two individuals applying for an NRC reactor operator's license. This information was incomplete and inaccurate in a respect material to the NRC since it did not include medical information already available to your staff that potentially disqualified the two individuals applying for a reactor operator's license. As a result, on August 30, 2002, the NRC issued a reactor operator license that did not contain required medical restrictions to each individual. During an audit of licensed operator medical records on August 30, 2002, your staff identified that these two operators had medical conditions that warranted contacting the NRC. On September 24, 2002, additional medical information was

submitted for the two individuals; however, no restriction to their licenses was requested. Based on the additional information provided, the NRC determined that a restriction to each license was necessary and the licenses were modified accordingly on October 17, 2002.

The failure to provide accurate and complete information to the NRC regarding pre-existing medical conditions of two initial reactor operator license candidates is a significant regulatory issue. If the information had been complete and accurate at the time provided, the NRC would have taken a different regulatory position and would not have issued licenses to the individuals without restriction. Therefore, this violation has been categorized in accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600 at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$60,000 is considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two years, the NRC considered whether credit is warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. The NRC has concluded that credit is warranted for your corrective actions that included, but were not limited to: (1) medical personnel were retrained on the regulatory requirements at all the Exelon sites; (2) contracts between the medical personnel and the utility were altered to specifically require the physician to evaluate medical testing results using applicable NRC requirements and American Nuclear Standards Institute/American Nuclear Society (ANSI/ANS) 3.4-1983, when performing licensed operator medical examinations; (3) medical reporting process procedure was changed to ensure the NRC is notified when a reportable medical condition is identified and site medical personnel were trained on the procedure; and (4) medical records at all Exelon sites were audited to attempt to identify any additional problems with medical conditions that were not reported.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

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 in Inspection Report 50-461/03-02. 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 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosure 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>. Should you chose to respond, your response, to the extent possible, should not include any personal privacy, proprietary, or safeguards information so that the response can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

/RA/

J. E. Dyer
Regional Administrator

Docket No. 50-461
License No. NPF-62

Enclosure: Notice of Violation (VIO 50-461/03-02-01)

cc w/encl: Site Vice President - Clinton Power Station
Clinton Power Station Plant Manager
Regulatory Assurance Manager - Clinton
Chief Operating Officer
Senior Vice President - Nuclear Services
Senior Vice President - Mid-West Regional Operating Group
Vice President - Mid-West Operations Support
Vice President - Licensing and Regulatory Affairs
Director Licensing - Mid-West Regional Operating Group
Manager Licensing - Clinton and LaSalle
Senior Counsel, Nuclear, Mid-West Regional Operating Group
Document Control Desk - Licensing

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¹ HQ concurrence received from Jennifer Dixon-Herrity, OE, on May 2, 2003.

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NOTICE OF VIOLATION

AmerGen Energy Company, LLC
Clinton Power Station

Docket No.461
License No. NPF-62
EA 03-030

During an NRC inspection conducted on January 24, 2003, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violation is listed below:

10 CFR 50.9 requires, in part, that information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

10 CFR 55.23 requires that to certify the medical fitness of the applicant, an authorized representative of the facility licensee shall complete and sign Form NRC - 396, "Certification of Medical Examination by Facility Licensee."

Form NRC - 396, when signed by an authorized representative of the facility licensee, certifies that a physician conducted a medical examination of the applicant as required in 10 CFR 55.21, and that the guidance contained in American Nuclear Standards Institute/American Nuclear Society (ANSI/ANS) 3.4-1983 was followed in conducting the examination and making the determination of medical qualification.

ANSI/ANS 3.4-1983, Section 5.3.2(1), provides, in part, that certain medical conditions preclude solo operation of a nuclear power plant.

Contrary to the above, on June 26, 2002, a senior licensee representative submitted to the NRC Form NRC - 396 for two individuals, each applying for an operator's license, that were not complete and accurate in all material respects. Specifically, the NRC Form 396 certified that each applicant met the medical requirements of ANSI/ANS 3.4-1983 and that neither applicant would require any restrictions to their license. In fact, each applicant had a pre-existing medical condition which did not meet the minimum standards of ANSI/ANS 3.4-1983, Section 5.3.2(1) and required that their individual licenses be amended to include restrictions for "no solo" operation. This information is material to the NRC because the NRC relies on this certification to determine whether the applicant meets the requirements to operate the controls of a nuclear power plant pursuant to 10 CFR Part 55.

This is a Severity Level III violation (Supplement VII).

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 Inspection Report No. 05000261/2003-002(DRS). 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-03-030" and send

it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 with a copy to the Regional Administrator, Region III, Suite 255, 801 Warrenville Road, Lisle, IL 60532-4351, and a copy to the NRC Resident Inspector at the Clinton Power Station, 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, United States 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, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 6th day of May 2003.