

August 29, 2003

EA-03-102

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

SUBJECT: NOTICE OF VIOLATION - DRESDEN NUCLEAR POWER STATION
[INSPECTION REPORT 50-237/2002-015(DRS); 50-249/2002-015(DRS)]
[NRC OFFICE OF INVESTIGATIONS REPORT NO. 3-2002-027]

Dear Mr. Skolds:

This refers to the July 23, 2002, letter from Exelon Generation informing the U.S. Nuclear Regulatory Commission (NRC) that an application, dated March 4, 2002, for renewal of a reactor operator license (NRC Form-398) for the Dresden Nuclear Station, Units 2 and 3, contained incomplete and inaccurate information. This also refers to the NRC biennial baseline inspection of the operator requalification program at the Dresden Station conducted from August 26 through October 4, 2002. The Inspection Report (No. 50-237/02-15(DRS); 50-249/02-15(DRS)) was provided to you on November 1, 2002, and identified an apparent violation of the NRC regulation (10 CFR 50.9) requiring that information submitted to the NRC by a licensee be complete and accurate in all material respects. Additionally, on April 9, 2003, the NRC Office of Investigations (OI) completed an investigation into the circumstances surrounding the apparent violation of 10 CFR 50.9.

In our letter, dated June 3, 2003, we provided you the opportunity to address the apparent violation identified in the inspection report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. Enclosed with our June 3, 2003, letter was a copy of the synopsis from the OI report. Information obtained during the course of the OI investigation indicated that the apparent violation was not willful. On July 3, 2003, your staff provided a written response to our letter.

Based on the information developed during the inspection and information provided in the July 3, 2003, letter from Exelon, 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. In summary, the NRC Form-398, "Personal Qualification Statement - Licensee," dated March 4, 2002, requested a reactor operator license to be renewed in accordance with 10 CFR 55.55 for

Dresden Station, Units 2 and 3. Information on that form indicated the operator passed a comprehensive written examination on November 30, 2001, and the operator met all other requalification requirements. The NRC renewed the license on March 7, 2002, based on the information provided by Exelon on that NRC Form-398. Title 10 Code of Federal Regulations, Section 55.59(a) provides, in part, that an applicant for renewal of a reactor operator license must pass a comprehensive written examination during the continuous requalification period and the continuous period shall not exceed 24 months (730 days).

The requalification period at the Dresden Station began on January 10, 2000, and ended on January 4, 2002. No comprehensive written examination meeting the requirements of 10 CFR Part 55 was administered at the Dresden Nuclear Station during the requalification period. Your staff administered a comprehensive written examination on November 30, 2001, that most of the staff of the training organization knew did not meet the requirements of 10 CFR Part 55. However, personnel in the training department involved in completing the inaccurate Form-398 were not aware of the 730-day requirement for NRC exams and the operator who signed the form was not aware that the exam did not meet the requirements of 10 CFR Part 55, resulting in the submission of the Form-398 containing inaccurate information.

The failure by Exelon to provide complete and accurate information to the NRC regarding a request to renew a reactor operator license is a significant regulatory issue. The NRC relies upon your staff to provide accurate information in order to make certain licensing decisions. Inaccurate or incomplete information provided to the NRC by your staff impedes the NRC's ability to perform its regulatory function. 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 renewed the license. 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 been the subject of escalated enforcement actions within the last two years,¹ the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit was given for the identification of the violation because on July 1, 2002, as a result of a self-assessment performed by the Licensed Operator Requalification Training Organization, your staff discovered that the licensed operators at Dresden Station had not fulfilled their required requalification training, as defined by NUREG-1021, "Operator Licensing Examination Standards for Power Reactors." In addition, on July 11, 2002, your staff contacted the NRC by

¹ A Severity Level III violation was issued on June 23, 2003, (EA-02-265) and a \$60,000 Civil Penalty was proposed for a failure to provide complete and accurate information on September 27, 2001, regarding a water hammer involving Dresden Station Unit 3 high pressure coolant injection system.

telephone about the submittal of three reactor operator license renewal requests that were inaccurate because the requests indicated that the operators were current in their requalification status when, in fact, they were not. Two of the license renewal requests were canceled because they had not yet been acted upon by the NRC. However, the third, as discussed above, had already been renewed by the NRC.

Credit was also given for the corrective actions taken. Your staff determined that the root cause for the submittal of inaccurate information to the NRC was due to failure of the staff to adequately maintain the licensed operator requalification program. Corrective actions included: (1) disciplining the individuals involved; (2) briefing all members of the training department on the details of the event; (3) training all licensed operators on requalification requirements and their responsibility to maintain personal cognizance of their requalification dates; (4) revising training procedures to ensure that the definitions of when requalification examinations were required were accurate; (5) creating orientation guides for the training director, operations training manager, lead operator requalification training instructor, operations director, and the shift operations supervisor, which reflect the regulatory requirements of the licensed operator requalification program; and (6) implementing an annual review of licensed operator requalification requirements. Additionally, Exelon removed the operator from licensed duties upon discovery of the violation. The license was correctly renewed and the operator returned to licensed duties on July 25, 2002.

Therefore, to encourage prompt identification and comprehensive correction of violations, 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 your staff's letter dated July 3, 2003. 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, its enclosure, and your response, if any, 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>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information

J. Skolds

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so that it 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/ James L. Caldwell for

J. E. Dyer
Regional Administrator

Docket Nos. 50-237; 50-249
License Nos. DPR-19; DPR-25

Enclosure: Notice of Violation

cc w/encl: Site Vice President - Dresden Nuclear Power Station
Dresden Nuclear Power Station Plant Manager
Regulatory Assurance Manager - Dresden
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 - Dresden and Quad Cities
Senior Counsel, Nuclear, Mid-West Regional
Operating Group
Document Control Desk - Licensing
M. Aguilar, Assistant Attorney General
Illinois Department of Nuclear Safety
State Liaison Officer
Chairman, Illinois Commerce Commission
J. Mikan, Will County Executive/
Board Chairman
P. Kaupas, Will County Sheriff
W. Ferguson, Will County Emergency
Management Director
The Honorable Arthur Schultz
J. Mezera, City Manager
J. Church, Kendall County Board Chairman
R. Randall, Kendall County Sheriff
P. Nelson, Grundy County Board Chairman
J. L. Olson, Grundy County Sheriff
J. Lutz, Grundy County Emergency
Management Coordinator/Director
The Honorable Richard Kopczick
The Honorable C. Richard Ellis
The Honorable Phillip Middleton
The Honorable Joseph Fracaro
The Honorable Elmer Rolando
The Honorable Harvey Taylor
The Honorable Tony McGann
The Honorable Joe Cook
M. T. Gibson, Channahon Village Administrator
The Honorable Richard Chapman
K. Carroll, Shorewood Village Administrator
The Honorable Robert Blum
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NAME	Weil		Pederson		Grant (Reynolds)	Congel		Clayton		Dyer (Caldwell)	
DATE	8/25/03		8/25/03		8/26/03	08/22/03		8/26/03		8/29/03	

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² Concurrence received August 22, 2003, from Jennifer Dixon-Herrity, OE.

NOTICE OF VIOLATION

Exelon Generation Company, LLC
Dresden Nuclear Power Station

Dockets No.50-237; 50-249
Licenses No. DPR-19; DPR-25
EA-03-102

During an NRC inspection conducted from August 26 to October 4, 2002, 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(a) requires, in part, that information provided to the Commission by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the licensee shall be complete and accurate in all material respects.

10 CFR 55.57(a)(4) requires, in part, that the applicant for the renewal of a reactor operator license provide a statement by an authorized representative of the facility licensee that during the effective term of the current license the applicant has satisfactorily completed the requalification program for which the operator license renewal is sought.

10 CFR 55.59(a) requires, in part, that each licensee shall successfully complete a requalification program developed by the facility licensee that has been approved by the Commission. This program shall be conducted for a continuous period not to exceed 24 months in duration and each licensee must pass a comprehensive written examination.

Contrary to the above, Exelon Generation Company, LLC, provided an NRC Form-398, "Personal Qualification Statement - Licensee," to the NRC that was not complete and accurate in all material respects. Specifically, information provided by authorized representatives of the Exelon Generation Company's Dresden Nuclear Station on the NRC Form-398, dated March 4, 2002, indicated that on November 30, 2001, the applicant for renewal of a reactor operator license passed a comprehensive written examination for the continuous period of requalification from January 10, 2000, to January 4, 2002. However, the written examination completed by the applicant did not meet and was not intended by the exam developer to meet the requirements of 10 CFR Part 55. As a result, the applicant did not complete a comprehensive written exam for the continuous period of requalification indicated on the Form-398. The information concerning the comprehensive written examination is material to the NRC because the NRC relies on it to determine whether the applicant meets the requirements to operate the controls of a nuclear power plant pursuant to 10 CFR Part 55.

(VIO 50-237/02-15-05; 50-249/02-15-05)

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. 50-237/2002-015(DRS); 50-249/2002-015(DRS) and in a letter from the licensee, dated July 3, 2003. 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-03-102" 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 Dresden facility, 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 29th day of August 2003.