

December 15, 2003

Mr. Jeffrey A. Benjamin, Vice President
Licensing and Regulatory Affairs
Exelon Generation Company, LLC
4300 Winfield Road
Warrenville, IL 60555

**SUBJECT: SUBSTITUTION OF CONTINGENCY FUNDING ARRANGEMENTS FOR
AMERGEN ENERGY COMPANY, LLC, PROVIDED BY EXELON GENERATION
COMPANY AND BRITISH ENERGY PLC FOR OPERATIONAL PURPOSES,
CLINTON POWER STATION, UNIT NO. 1, OYSTER CREEK NUCLEAR
GENERATING STATION, AND THREE MILE ISLAND NUCLEAR STATION,
UNIT 1 (TAC NOS. MC1075, MC1076, AND MC1077)**

Dear Mr. Benjamin:

By letter dated October 31, 2003, British Energy plc, (British Energy) and Exelon Generation Company, LLC (Exelon), requested that the United States Nuclear Regulatory Commission (NRC) provide written consent to the substitution of a proposed single funding agreement from Exelon, for the current funding arrangements provided by British Energy and Exelon to assure the availability of up to \$200 million in funds for operational purposes to AmerGen Energy Company, LLC (AmerGen).

In an agreement dated April 3, 2000, British Energy agreed to provide contingency funding to AmerGen in connection with the operation and maintenance of all of the nuclear reactors owned or to be acquired by AmerGen. These reactors include: Clinton Power Station, Unit No. 1, Oyster Creek Nuclear Generating Station, and Three Mile Island Nuclear Station, Unit 1. Similarly, in an agreement dated January 12, 2001, Exelon agreed to provide funding to AmerGen under the same or similar terms and conditions as British Energy. These two agreements provided commitments for up to \$100 million each; and therefore, AmerGen currently has a total of \$200 million available as a contingency funding commitment from Exelon and British Energy. Under the terms of these agreements, NRC written consent is required prior to the discontinuance of these two agreements.

Exelon proposes to eliminate the British Energy agreement of \$100 million and the current Exelon agreement of \$100 million, and substitute a new Exelon agreement to AmerGen for \$200 million. AmerGen is the owner and operator for Clinton Power Station, Unit No. 1, Oyster Creek Nuclear Generating Station, and Three Mile Island Nuclear Station, Unit 1.

Exelon has entered into a purchasing agreement to buy the 50% non-controlling ownership interest in AmerGen that is indirectly owned by British Energy. Exelon will do so by purchasing 100% of the stock of British Energy's indirectly wholly owned United States subsidiary, British Energy US Holdings Inc. (BEUSH). Following this transaction, Exelon will continue to control AmerGen, as the 100% owner of AmerGen both directly through its direct 50% ownership interest and indirectly (50%) through its ownership of BEUSH.

In connection with the proposed purchase by Exelon of the interest in AmerGen from British Energy, there will be no direct or indirect "transfer of control" of the licenses held by AmerGen pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Section 80 (10 CFR 50.80), because Exelon currently exercises control of AmerGen and will remain in control of AmerGen after the purchase agreement is consummated.

The NRC staff finds that Exelon is financially qualified to provide and fulfill a \$200 million contingency commitment to AmerGen. The results of Exelon's 2002 operations are provided in the Form 10-K Annual Report for 2002, filed with the Securities and Exchange Commission. It shows that Exelon had over \$6.8 billion in operating revenue, an operating income of \$509 million, and a net income of \$400 million. In addition, the balance sheet reflects total assets of \$11 billion, which includes \$1.8 billion in current assets and \$4.8 billion in net property, plant and equipment. Finally, Exelon's financial qualifications to provide the commitment is further demonstrated by its investment grade ratings: Moody's Baa1, Fitch BBB+, and Standard & Poors A-.

In consideration of the above, the NRC hereby provides its consent to the discontinuation and revocation of the current funding arrangements provided by British Energy and Exelon and the substitution of a single funding agreement from Exelon providing for the availability of \$200 million in funds to AmerGen, under the terms and conditions in that funding agreement, for the facilities listed above.

Sincerely,

/RA/

Donna M. Skay, Senior Project Manager
Project Directorate I-1
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-461, 50-219, and 50-289

cc: See next page

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Sincerely,

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Docket Nos. 50-461, 50-219, and 50-289

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*Input provided, no major changes

** See previous concurrence

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