

February 13, 2004

Mr. Christopher M. Crane,
President and Chief Nuclear Officer
Exelon Generation Company
AmerGen Energy Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

Dear Mr. Crane:

On February 5, 2004, Mr. Jeffrey A. Benjamin of Exelon Generation Company, LLC (EGC) submitted a letter addressing an issue related to EGC plants. The letter and accompanying affidavit dated February 5, 2004, executed by Mr. Benjamin, requested that the letter be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790. A non-proprietary copy of the letter was provided as Attachment 1 and has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room.

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

- (i) The information is and has been held in confidence by Exelon Generation Company, LLC (EGC);
- (ii) The information is being transmitted voluntarily to the Nuclear Regulatory Commission (NRC) in response to NRC correspondence;
- (iii) This information is being provided to the NRC in confidence with the expectation of non-disclosure;
- (iv) This information is not available in public sources and cannot be gathered readily from other publicly-available information; and
- (V) Public disclosure would create substantial harm to the competitive position of EGC by prematurely making the subject information available to EGC's competitors and other parties.

We have reviewed Mr. Benjamin's February 5, 2004, letter in accordance with the requirements of 10 CFR 2.790, and on the basis of his 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 February 5, 2004, letter identified by EGC 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.

The February 5, 2004, letter incorporated the entire substance of another letter, also identified as proprietary, from Mr. Benjamin, dated December 17, 2003. We have determined that the December 17, 2003, letter does not meet the provisions of 10 CFR 2.790, and are, therefore, rejecting that letter and purging it from the NRC Official Agency Records system, ADAMS. Accordingly, no NRC action will be taken on the December 17, 2003, letter.

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

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