

August 5, 2004

Mr. Michael Niederer  
2 Oak Leaf Drive  
Waretown, NJ 08758

Dear Mr. Niederer:

I am responding to your letter of June 17, 2004, addressed to the Office of Public Affairs of the Nuclear Regulatory Commission (NRC). Your letter urged NRC to deny Exelon's request to renew the operating license of the Oyster Creek Nuclear Generating Station (OCNGS), owned and operated by AmerGen Energy Company, LLC (AmerGen), in Lacey Township, New Jersey.

The current license expires on April 9, 2009. In a press release dated February 19, 2004, and in correspondence to the NRC, AmerGen announced its intention to seek renewal of the OCNGS operating license for a period of up to twenty (20) years. However, AmerGen has not yet submitted an application for NRC review. In the absence of an application, the NRC has no basis to take the action you requested. Should the NRC receive an application in the future, the NRC staff will review both the safety and environmental issues associated with this license renewal. Specifically, the licensee must provide the NRC with an evaluation that addresses the technical aspects of plant aging and must describe how the aging will be managed. In addition, the licensee must prepare an evaluation of the potential impact on the environment to support plant operation for the additional 20 years. The NRC reviews the application, documents its evaluations in a safety evaluation report and supplemental environmental impact statement, and performs verification inspections at the licensee's facilities. License renewal is a process open to public participation in a number of ways, including public meetings and the opportunity for adjudicatory hearings. See the NRC website for more information at <http://www.nrc.gov/reactors/operating/licensing/renewal.html>.

You stated that OCNGS's "basic design is flawed from a security standpoint," but did not provide any details to substantiate your claim. We note that the OCNGS facility is required to meet the same stringent NRC security requirements as other, more modern NRC-licensed reactors. As a result of the terrorist attacks of September 11, 2001, the NRC has increased its focus on security and emergency preparedness at nuclear power plants. Contingency measures are in place to address situations associated with a terrorist attack on the OCNGS facility. Further, OCNGS is in the process of implementing additional security measures to meet recently enhanced NRC security requirements. Additional information on emergency preparedness, potential health effects, and actions taken since September 11<sup>th</sup> can also be found on the NRC website (<http://www.nrc.gov>).

You stated that the spent fuel pool "is protected by a sheet metal shell which is not defensible from attack by aircraft." The NRC applies a fundamental defense-in-depth strategy for nuclear facilities such as OCNGS to protect public health and safety. The strategy encompasses design, construction, operation, training, event mitigation, and contingency planning, including emergency planning. Nuclear facilities are robust structures, constructed of thick concrete-reinforced walls and stainless steel liners. While these facilities were not specifically designed

against the impact of the jumbo jets of today, they were designed to withstand the significant forces associated with earthquakes, hurricanes and tornadoes. As a result of the terrorist attacks of September 11, 2001, the NRC has increased its focus on security and emergency preparedness at nuclear power plants. Contingency measures are in place to address situations associated with a terrorist attack on the facility. Additional information on emergency preparedness, potential health effects, and actions taken since September 11<sup>th</sup> can also be found on the NRC website (<http://www.nrc.gov>).

Regarding your concern about emergency evacuation, Federal regulations require that comprehensive emergency plans be prepared and periodically exercised to assure that actions can and will be taken to notify and protect the public in the vicinity of a nuclear facility in the event of a radiological emergency. While the NRC has overall responsibility for nuclear safety, the Federal Emergency Management Agency (FEMA) takes the lead in reviewing and assessing offsite planning and response and in assisting State and local governments. Federal evaluation of emergency preparedness is an ongoing process. Commercial nuclear power plants and offsite response authorities are required to regularly conduct exercises to demonstrate their ability to implement their emergency plans. Based on the most recent full-scale emergency exercise for OCNGS, conducted in September 2003, both FEMA and NRC determined that the plans in place for the plant provide reasonable assurance that the public would be protected. We also recognize that emergency plans must be regularly reviewed and improved. In this regard, the evacuation time estimates for the affected communities around OCNGS are currently being updated using the latest Census data. Additional information on evacuation and other protective measures can also be found on the NRC website (<http://www.nrc.gov>).

As you described correctly, some of OCNGS's spent fuel assemblies are kept in dry storage in NRC-approved containers on the OCNGS site. The NRC had generically addressed the issue of temporary storage of spent nuclear fuel in the Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants (NUREG-1437) and in NRC regulation at 10 CFR 51.23. Specifically, the regulation states that "if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 30 years beyond the licensed life for operation (which may include the term of a revised or renewed license) of that reactor at its spent fuel storage basin or at either onsite or offsite independent spent fuel storage installations." Absent the introduction of any new and significant information, the conclusions of NUREG-1437 regarding spent nuclear fuel are adopted in the license renewal environmental impact statements. The Department of Energy, on behalf of the Federal government, is actively pursuing NRC licensing of a high-level waste/spent fuel repository in Nevada to provide a permanent storage location for this waste. More information regarding spent fuel storage can be found at <http://www.nrc.gov/waste/spent-fuel-storage.html>.

M. Niederer

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We appreciate you taking the time to share your opinions and concerns in this matter with the NRC. If you have any further questions regarding these issues, please call me 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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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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\*Concurred by e-mail

\*\*RLEP indicated that it has no need to concur since the paragraph on license renewal had been used repeatedly in previous correspondence.

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