

Shannon Fisk
Environmental Law and Policy Center
35 East Wacker Drive, Suite 1300
Chicago, Illinois 60601

In the Matter of
EXELON GENERATION COMPANY, LLC
(Early Site Permit for Clinton ESP Site)
Docket No. 52-007-ESP

Dear Mr. Fisk:

This is in response to your letter of August 30, 2004, to the Commissioners and parties to this proceeding, in which you describe the Environmental Law and Policy Center's ("ELPC") plans to file a reply to the NRC Staff's and Exelon Generation Company's ("Exelon") answers to the "Petition of Intervenors [ELPC], Blue Ridge Environmental Defense League, Nuclear Information and Resource Service, Nuclear Energy Information Service, and Public Citizen for Interlocutory Review of the Licensing Board Panels' Rejection of Energy Efficiency Alternatives Contention" ("Petition") dated August 23, 2004. As I informed you yesterday, the Staff believes the Petition was not properly filed under 10 C.F.R. § 2.341(f), as set forth in the "NRC Staff's Answer to Intervenors' [Petition]" ("Staff Answer") dated August 27, 2004. As I further informed you, while 10 C.F.R. § 2.341 provides for the filing of replies, the regulation allowing for interlocutory review of Licensing Board rulings on petitions to intervene, 10 C.F.R. § 2.311, does not so provide. Accordingly, the Staff believes that the Commission's rules do not allow for a reply to the Staff's Answer, and if ELPC seeks to file such a reply, it should file a motion requesting leave to do so.

The Staff is not taking any position on whether it would object to such a motion if ELPC were to file one. Nonetheless, the Staff notes that if the Commission were to grant such a motion, the Staff would not object to the consolidation of replies to the Staff's and Exelon's answers, to be filed on whatever schedule the Commission deems appropriate. If you have any further questions, please call me at (301) 415-1696.

Sincerely,

/RA/

Robert M. Weisman
Counsel for NRC Staff

cc: Service List