

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

March 22, 2005 (3:06pm)

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of

Exelon Generation Company, LLC

(Early Site Permit for Clinton ESP Site)

Docket No. 52-007

ASLBP No. 04-821-01-ESP

**INTERVENORS' MOTION FOR EXTENSION OF TIME TO REPLY TO EXELON'S
MOTION FOR SUMMARY DISPOSITION OF CONTENTION 3.1**

Intervenors Environmental Law and Policy Center, Blue Ridge Environmental Defense League, Nuclear Information and Resource Service, Nuclear Energy Information Service, and Public Citizen, pursuant to 10 C.F.R. 2.307(a), hereby request that the Presiding Officer of the Atomic Safety and Licensing Board Panel ("Panel") grant a 45-day extension of time for Intervenors to respond to Exelon's Motion for Summary Disposition of Contention 3.1. The deadline for Intervenors to respond to Exelon's March 17, 2005 Motion would then be on Monday, May 23, 2005.

Intervenors have good cause¹ for requesting this extension because additional time is needed to collect the information and expert testimony necessary to fully reply to Exelon's Motion. 10 C.F.R. 2.307(a); *Cf. In re Texas Utilities Elec. Co.*, 22 N.R.C. 434 (1985) (indefinite continuance for response to motion for summary disposition granted where applicant needed time to collect information). The issues raised by Exelon in its Motion and supporting documentation are complex and include numerous factual issues on which Intervenors plan to consult with technical experts in order to support our Clean Energy Alternatives Contention.

¹ As this Panel has noted, the recent changes to 10 C.F.R. Pt. 2 re-adopted the "good cause" standard for extensions of time and, therefore, "it is not apparent that the more rigorous 'unavoidable and extraordinary circumstances' extension standard" must be applied. *In re Exelon Generation Co.*, 2004 NRC LEXIS 119, at *2 n. 2 (June 3, 2004).

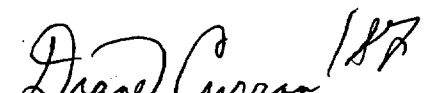
Preparation of a full reply is time consuming and is occurring at the same time that Intervenors are reviewing the Draft Environmental Impact Statement that the NRC Staff recently issued in this proceeding and preparing for the April 19, 2005 public hearing on that document. A 45-day extension is appropriate in order to enable Intervenors to fully reply to Exelon's Motion.

In addition, Intervenors note that a 45-day extension should not delay the resolution of Exelon's Early Site Permit application. *In re Exelon Generation Co.*, 2004 N.R.C. LEXIS 119, at *2 n.2 (granting extension of time where it would not prejudice the other participants). According to the schedule posted on the NRC website, <http://www.nrc.gov/reactors/new-licensing/esp/clinton.html>, the Panel is not scheduled to make an initial decision on the application until at least March 2006. Also, as the Panel established in its October 27, 2004 Order, the Intervenors' initial filings for the hearing on their Contention are not required until 45 days after the issuance of the Final Environmental Impact Statement, which is currently scheduled for October 2005. Given that no critical activity is scheduled in this proceeding until at least late-2005, extension of the deadline for Intervenors' response until May 23, 2005 would not delay this proceeding.


Intervenors have consulted with counsel for Exelon and the NRC Staff regarding this motion. Counsel for Exelon stated that they would oppose this motion. Counsel for the NRC Staff stated that at the time of filing the Staff is not supporting the Intervenors' motion for an extension of time.

Dated: March 22, 2005

Respectfully Submitted,



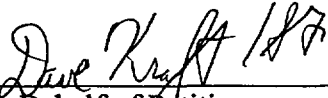
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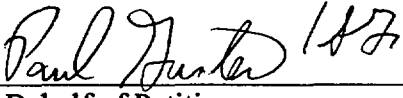


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Docket No. 52-007-ESP

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CERTIFICATE OF SERVICE

I, Shannon Fisk, hereby certify that copies of the Intervenor's Motion for Extension of Time to Reply to Exelon's Motion for Summary Disposition of Contention 3.1 in the above captioned proceeding have been served on the following via electronic mail and by deposit in the U.S. mail, first class, on this 22nd day of March, 2005.

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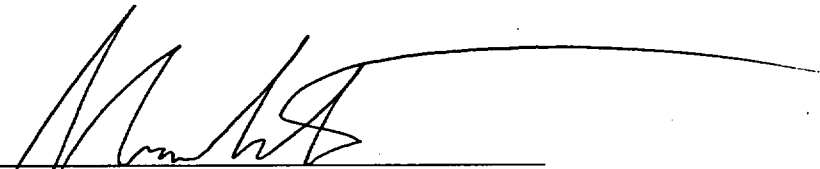
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