

March 31, 2006

EA-06-022

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

SUBJECT: LASALLE COUNTY STATION UNIT 2 - NOTICE OF VIOLATION
(NRC INSPECTION REPORT NO. 05000374/2006010 AND NRC OFFICE
OF INVESTIGATIONS REPORT NO. 3-2005-007)

Dear Mr. Crane:

This refers to a U.S. Nuclear Regulatory Commission (NRC) occupational radiation safety inspection conducted in February 2005 (NRC Integrated Inspection Report No. 05000374/2005002 dated May 10, 2005) and an NRC Office of Investigations (OI) investigation of an event involving an apparent violation of the technical specifications on February 13, 2005, at LaSalle County Station Unit 2. The purpose of the OI investigation was to determine if a contractor (The Venture) pipefitter foreman and two contractor pipefitters willfully entered a posted high radiation area (HRA) without receiving the required HRA briefing. The OI investigation was completed on October 27, 2005, and based on the information developed during the investigation, OI substantiated the issue.

In a letter dated January 27, 2006, we transmitted the Summary of Investigation associated with OI Report No. 3-2005-007 and provided you the opportunity to address the apparent violation identified during the OI investigation by either attending a predecisional enforcement conference, or submitting a written response before we made our final enforcement decision. In a letter dated February 27, 2006, you provided a response to the apparent violation.

Based on the information developed during the OI investigation and the information provided in your February 27, 2006 letter, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice), and the circumstances surrounding the violation are described in the Summary of Investigation which was transmitted to you on January 27, 2006. On February 13, 2005, a contractor pipefitter foreman and two contractor pipefitters entered a posted HRA in the Unit 2 condenser pit to conduct repairs to a sprinkler head and did not sign the required HRA radiation work permit (RWP) or receive the required briefing by radiation protection technicians (RPT) for work in a HRA. The HRA was properly posted and barricaded with a fence gate and with a swing gate to preclude inadvertent entry. A radiation protection technician identified the inappropriate actions by the contractor pipefitter foreman and contractor pipefitters which were an apparent violation of Technical Specification 5.4.1.a and Exelon Procedure RP-AA-460, Revision 4.

Your root cause investigation report identified the following two root causes for the event: (1) communications between the work group and access control point personnel were unclear and led to a misunderstanding of the work location; and (2) contrary to known rules, the individuals believed permission had been granted to proceed to the work area regardless of radiological postings. Training had been provided to the work group at the beginning of the outage which included HRA access requirements using a scenario similar to this event. All three individuals acknowledged being in attendance at the training. Therefore, the actions of the contractor pipefitter foreman and two contractor pipefitters are considered a willful violation representing careless disregard of NRC requirements, and the violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In your letter dated February 27, 2006, you acknowledged that a willful violation occurred, presented information indicating that the violation should be categorized at Severity Level IV, and indicated that you believed that the violation met the NRC criteria to be categorized as a non-cited violation (NCV). Specifically, you contend that the foreman was a low-level individual and should not be considered a licensee official as defined in Section IV.A of the Enforcement Policy. You also referenced three previous NRC enforcement actions¹ involving a first-line supervisor willfully causing an NRC licensee to be in violation of regulatory requirements where each prior action was individually categorized at Severity Level IV.

In making our decision, we considered the foreman a licensee official. We determined that the foreman was responsible for the actions of himself and the contractor employees and that the foreman failed to ensure that both he and the two pipefitters complied with the radiation protection procedures associated with entry into an HRA. The willful violation cannot be considered an isolated act of an employee since three employees, one of whom was a foreman, were involved in the violation. Additionally, although there may have not been a lack of management oversight, there was a lack of first line supervision by the foreman. Regarding the three prior enforcement cases referenced in your letter, we determined that each of the cases involved the willful actions of a supervisor; however, none caused other individuals to violate licensee procedures. After reviewing the information presented in your letter dated February 27, 2006, and the Enforcement Policy, we concluded that you did not provide a sufficient basis for the NRC to re-categorize the violation at Severity Level IV or as an NCV. Therefore, this willful violation is appropriately categorized in accordance with the Enforcement Policy at Severity Level III.

In accordance with the Enforcement Policy, a base civil penalty in the amount of \$65,000 was considered for this Severity Level III violation. Because this was a willful violation, the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit was warranted for the *Identification* civil penalty adjustment factor because a radiation protection technician identified the violation. Credit was also warranted for the *Corrective Action* adjustment factor for corrective measures that included terminating the employment of

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The previous enforcement actions referenced by the licensee were: (1) EA-00-057 at Duane Arnold Energy Center, (2) EA-00-075 at the Braidwood Station, and (3) EA-03-153 at the Beaver Valley Power Station.

the two pipefitters and the foreman, using Radiation Worker Pocket Data Sheets, using a briefing checklist for HRA entries, increasing supervisor and management oversight of radiation area/HRA field communications, and reinforcing standards and expectations by improving training and procedures. Additionally, Exelon plans to conduct a review of the implementation and effectiveness of its and Venture's corrective actions covered in the Confirmatory Order dated November 22, 2005. The LaSalle Plant Manager and Site Vice President also plan to meet with contract leadership prior to the next two refueling outages to establish personnel expectations in following radiological work requirements.

Therefore, to encourage prompt identification and comprehensive correction of the violation, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in your letter dated February 27, 2006. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

If you disagree with this enforcement action, the NRC would normally offer you the opportunity to request alternate dispute resolution (ADR) with the NRC as a part of our pilot program for resolving issues involving apparent willful violations. However, the topic of unauthorized HRA entries was recently the subject of a successful ADR mediation between the NRC and Exelon Nuclear for a previous violation (reference LaSalle EA-04-170). (*NOTE: This ADR mediation took place after the occurrence of the current violation (EA-06-022)*). Therefore, after consultation with the Director, Office of Enforcement, the NRC believes we have each had ample opportunity to share our views and interests on this issue and that further use of ADR is unnecessary. If you have any additional information or views contrary to the above, we would consider your request for ADR.

If you have any questions, please contact Steven Orth, Health Physics Team Leader, at 630-829-9827.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response (if you choose to provide one) will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response (if

you choose to provide one) should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. The NRC also includes significant enforcement actions on its Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

/RA by G. Grant Acting for/

James L. Caldwell
Regional Administrator

Docket No. 50-374
License No. NPF-18

Enclosure: Notice of Violation

cc w/encl: Site Vice President - LaSalle County Station
LaSalle County Station Plant Manager
Regulatory Assurance Manager - LaSalle County Station
Chief Operating Officer
Senior Vice President - Nuclear Services
Senior Vice President - Mid-West Regional
Operating Group
Vice President - Mid-West Operations Support
Vice President - Licensing and Regulatory Affairs
Director Licensing - Mid-West Regional
Operating Group
Manager Licensing - Clinton and LaSalle
Senior Counsel, Nuclear, Mid-West Regional
Operating Group
Document Control Desk - Licensing
Assistant Attorney General
Illinois Department of Nuclear Safety
State Liaison Officer
Chairman, Illinois Commerce Commission

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 (NRC INSPECTION REPORT NO. 05000374/2006010 AND NRC OFFICE OF
 INVESTIGATIONS REPORT NO. 3-2005-007)

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NOTICE OF VIOLATION

Exelon Nuclear
LaSalle County Station, Unit 2

Docket No. 50-374
License No. NPF-18
EA-06-022

During an NRC investigation completed on October 27, 2005, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Technical Specification 5.4.1.a for the LaSalle County Nuclear Power Station states that written procedures shall be established, implemented, and maintained covering the applicable procedures recommended in Regulatory Guide 1.33, Revision 2, Appendix A, February 1978. Section 7.e.1 of Regulatory Guide 1.33 recommends that written administrative procedures governing access control to radiation areas be established, implemented, and maintained.

Exelon Procedure RP-AA-460, Revision 4, "Controls for High and Very High Radiation Areas," provides, in part, that individuals requesting entry into high radiation areas (HRA) will review and sign the appropriate radiation work permit (RWP) and will receive a briefing from radiation protection personnel prior to entry into the HRA.

Contrary to the above, on February 13, 2005, a contractor pipefitter foreman and two contractor pipefitters entered a properly posted HRA without reviewing and signing the appropriate RWP and without receiving a briefing from radiation protection personnel for entry into the HRA.

This is a Severity Level III violation (Supplement IV).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in your letter dated February 27, 2006. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-06-022," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region III, and a copy to the NRC Resident Inspector at the LaSalle County Station within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS) accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding

Notice of Violation

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(e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.790(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days.

Dated this 31st day of March 2006