

RAS 11546

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 04/17/06

SERVED 04/17/06

Before Administrative Judges:

Dr. Paul B. Abramson, Chairman
Dr. Anthony J. Baratta
Dr. David L. Hetrick

In the Matter of

EXELON GENERATION COMPANY, LLC

(Early Site Permit for Clinton ESP Site)

Docket No. 52-007-ESP

ASLBP No. 04-821-01-ESP

April 17, 2006

ORDER

(Request for Documents and Briefings)

Before the Board is the Application of Exelon Generation Company, LLC (EGC) for a 10 C.F.R. Part 52 early site permit (ESP), seeking approval of the site of the existing Clinton nuclear power station in DeWitt County, Illinois, for the possible construction of one or more new nuclear reactors.

The Licensing Board admitted a single contention in respect of that Application, Contention 3.1, challenging EGC's analysis of alternatives.¹ Subsequently, following the submittal of certain additional analyses, the Board granted the Applicant's motion for summary disposition of that contention,² and, on appeal by the intervenors, the Commission denied review of the Board's decision.³

The Advisory Committee on Reactor Safeguards (ACRS) reported completion of its review of the Staff's Final Safety Evaluation Report (FSER) on this Application on March 24,

¹ See LBP-04-17, 60 NRC 229, 252 (2004).

² See LBP-05-19, 62 NRC 134, 183 (2005).

³ See CLI-05-29, 62 NRC 801 (2005).

2006,⁴ and, although the FSER has not yet been released, this Board now turns to the safety portion of the Mandatory Hearing requirement in respect of this Application.⁵

Documentary Materials To be Filed With the Board

To enable the Board to commence that review, on or before May 8, 2006, EGC and/or the Staff, as relevant, shall deliver to each member of the Board (except as expressly set out otherwise below) one hard copy of the following documents regarding the EGC ESP Application for the Clinton site:

1. The EGC Safety Analysis Report (SAR) in respect of this Application, together with all supplemental reports;
2. The Site Redress Plan;
3. The Emergency Plan (EP);
4. The Environmental Report (ER), together with all revisions thereto and summaries thereof;
5. The FSER (promptly upon release), together with all Staff Requests for Additional Information (RAIs) and EGC RAI Responses thereto in respect of matters covered by the SAR and FSER (*the Board will require only two copies of the RAI materials - one to be sent to the Board Chairman and one to Dr. Hetrick*);
6. Transcripts, reports, memoranda, or other official records, if any, regarding ACRS review of the EGC Application;
7. Memoranda and/or written summaries of telephone calls and meetings between the Staff and Applicant, if any;
8. Staff written reports of in-office reviews of documents maintained by the Applicant at remote locations, if any;

⁴ See Letter from ACRS to Chairman Diaz, "Final Review of the Exelon Generation Company, LLC, Application for Early Site Permit and the Associated NRC Staff's Final Safety Evaluation Report" (Mar. 24, 2006), ADAMS Accession No. ML060860098.

⁵ See 10 C.F.R. §§ 52.18, 52.21, & 52.24.

9. In addition to the documents indicated above, the NRC Staff shall prepare and provide the Board with the following:

- a. A detailed report setting out, subsection-by-subsection, how the relevant Standard Review Plan (SRP) was applied to this Application, indicating, in the cases where any particular subsection of the SRP was not directly applicable, how the guidance of the particular subsection was adapted to apply to the Application under review and the rationale for that adaptation.
 - i. The report shall contain a complete list of regulatory guidance documents that the SRP indicated should be applied, and state whether or not each such guidance document was applied by the Applicant.
 - ii. Where guidance documents were applied, the NRC Staff shall indicate whether they were appropriately applied. Where guidance documents were not applied, the Staff shall indicate what alternative methods (including application of methodology specified by regulatory guidance documents not expressly referenced in the applicable SRP) were applied and describe the Staff's rationale for acceptance of that methodology.
 - iii. Where no regulatory guidance document was applicable for a particular subsection of the SRP, the Staff shall describe how the Applicant addressed and the Staff reviewed the matters covered by that subsection.
 - iv. Particular subsections where directly applicable regulatory guidance documents were explicitly followed by the Staff and Applicant (and appropriately applied) may be simply listed as such in tabular form and so indicated in the subsection-by-subsection analysis.
- b. The report shall also clearly identify each other instance wherein the License Application deviated from NRC guidance, and how the Staff and Applicant dealt with those deviations.
- c. In connection with the foregoing, the Staff shall identify the name and job title of the individual staff member who led the effort to review the topical material subject of each major subsection of the SRP and his/her immediate supervisor.
- d. The Staff shall also deliver a list of all areas wherein the project manager (or supervising staff member) disagreed with the proposed findings of the staff member charged with a portion of the review, setting out the topic at issue, the ultimate resolution, and the rationale for such resolution.

With respect to the reports identified by this clause (9), the Staff shall notify the Board, not later than April 21, 2006, the date upon which it will deliver such documents; provided, that such delivery date shall not be later than May 19, 2006.

The written submissions shall include copies of the applicable Standard Review Plan (SRP) and regulatory guidance documents. In addition, if the Staff believes there are other relevant documents which would be useful in the Board's review of EGC's License Application

as part of the Mandatory Hearing it shall produce such documents.

Finally, regarding the environmental portion of the mandatory hearing, the Staff shall provide its current estimate of the date for availability of the Final Environmental Impact Statement.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁶

/RA/

Dr. Paul B. Abramson, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 17, 2006

⁶ Copies of this order were sent this date by Internet e-mail transmission to: (1) Counsel for EGC, and (2) Counsel for the NRC Staff.

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NUCLEAR REGULATORY COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (REQUEST FOR DOCUMENTS AND BRIEFINGS) have been served upon the following persons by deposit in the U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Dr. Paul B. Abramson, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Dr. David L. Hetrick
8740 E. Dexter Dr.
Tucson, AZ 85715

Administrative Judge
Dr. Anthony J. Baratta
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Ann P. Hodgdon, Esq.
Mauri T. Lemoncelli, Esq.
Darani M. Reddick, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dave Kraft, Executive Director
Nuclear Energy Information Service
P.O. Box 1637
Evanston, IL 60204-1637

Paul Gunter, Director
Reactor Watchdog Project
Nuclear Information and Resource Service
1424 16th St., NW, Suite 404
Washington, DC 20036

Michele Boyd
Public Citizen
215 Pennsylvania Ave., SE
Washington, DC 20003

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Howard A. Learner, Esq.
Ann Alexander, Esq.
Shannon Fisk, Esq.
Environmental Law and Policy Center
35 E. Wacker Dr., Suite 1300
Chicago, IL 60601

Thomas S. O'Neill, Esq.
Associate General Counsel
Exelon Nuclear
4300 Winfield Rd.
Warrenville, IL 60555

Steven P. Frantz, Esq.
Paul M. Bessette, Esq.
Alex S. Polonsky, Esq.
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004

Diane Curran, Esq.
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 17th day of April 2006

