

May 15, 2008

MEMORANDUM TO: Michael T. Lesar, Chief
Rules and Directives Branch
Division of Administrative Services
Office of Administration

FROM: Andrew Persinko, Chief/**RA**/
Reactor Decommissioning Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: FEDERAL REGISTER NOTICE OF NOTICE OF CONSIDERATION OF
APPROVAL OF TRANSFER OF FACILITY OPERATING LICENSE AND
CONFORMING AMENDMENT, AND OPPORTUNITY FOR A HEARING -
ZION NUCLEAR POWER STATION, UNITS 1 AND 2 (TAC NOS. J00341
AND J00342)

Enclosed please find one signed original, four copies and an electronic version on a 3.5 diskette of the subject Federal Register Notice for transmittal to the Office of the Federal Register for publication.

ADM/DAS/RDB has been given owner's rights to the Notice in ADAMS (ML080500261). Publicly available U.S. Nuclear Regulatory Commission documents referenced in the Notice have been finalized in ADAMS and profiled for public release. ADAMS accession numbers for all such documents are provided in the text under Further Information.

Docket Nos.:	50-295 and 50-304	Staff Contact:	John Hickman
License Nos.:	DPR-39 and DPR-48	Phone No.:	(301) 415-3017

Enclosures:

1. Signed original FRN
2. 4 copies of FRN
3. Diskette

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NUCLEAR REGULATORY COMMISSION

DOCKET NOS. 50-295 AND 50-304

**NOTICE OF CONSIDERATION OF APPROVAL OF TRANSFER OF FACILITY OPERATING
LICENSE FOR ZION NUCLEAR POWER STATION UNITS 1 AND 2 AND
CONFORMING AMENDMENT AND OPPORTUNITY FOR A HEARING**

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of application for approval of a license transfer and conforming amendment and opportunity for a hearing and to provide written comments.

DATES: A request for a hearing must be filed by **[INSERT DATE: 20 DAYS FROM DATE OF PUBLICATION]**.

FOR FURTHER INFORMATION CONTACT: John B. Hickman, Project Manager, Reactor Decommissioning Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 415-3017; Fax number: (301) 415-5370; email: jbh@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering the issuance of an Order under 10 CFR 50.80 approving the direct transfer of Facility Operating License Nos. DPR-39 and DPR-48 for Zion Nuclear Power Station Units 1 and 2 (Zion) currently held by Exelon Generation Company, LLC (Exelon), as owner and licensed operator of Zion. The transfer would be to ZionSolutions, LLC (ZS) a wholly owned subsidiary of EnergySolutions

(ES). The Commission is also considering amending the license for administrative purposes to reflect the proposed transfer. Such amendment would replace references to Exelon in the license with references to ZS and remove references to a prior license transfer from ComEd to Exelon.

The application now being considered is dated January 25, 2008, and was filed by Exelon, ZS, and ES. According to the application, ZS would acquire ownership of the facility following approval of the proposed license transfer, and ZS would possess, use and maintain the permanently shutdown and defueled Zion Station. Exelon would retain title to the real estate upon which Zion is sited, ownership of the spent nuclear fuel and Class C radioactive waste, and other improvements specified in the Asset Sale Agreement. After the transfer, ZS intends to decommission the Zion units. The application for transfer does not propose any physical or operational changes to the Zion facility. An NRC administrative review, documented in a letter sent to Exelon on February 21, 2008, found the application acceptable to begin a more detailed technical review.

Pursuant to 10 CFR 50.80, no license, or any right there under, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and Orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. An Environmental Assessment (EA) will not be performed because, pursuant to 10 CFR 51.22(c)(21), license transfer approvals and associated license amendments are categorically excluded from the requirements to perform an EA.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility which does no more than conform the license to reflect the transfer action involves no significant hazards consideration. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

II. Opportunity to Request a Hearing

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected by the Commission's action on the application may request a hearing and intervention via electronic submission through the NRC E-filing system. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i)-(viii).

A request for hearing or a petition for leave to intervene must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated on August 28, 2007 (72 FR 49139). The E-Filing rule requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/ requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/ requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the

document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the “Contact Us” link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 C.F.R. 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 C.F.R. § 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include social security numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The formal requirements for documents contained in 10 CFR 2.304(c)-(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3)), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

As indicated below, pursuant to 10 CFR 2.310(g), any hearing would be subject to the procedures set forth in 10 CFR Part 2, subpart M.

III. Opportunity to Provide Written Comments

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the

Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this FEDERAL REGISTER notice. Comments received after 30 days will be considered if practicable to do so, but only those comments received on or before the due date can be assured consideration.

For further details with respect to this license transfer application, see the application dated January 25, 2008, available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly-available records will be accessible electronically from the Agency Wide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site <http://www.nrc.gov/reading-rm/adams.html>.

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland this 9th day of May, 2008.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Keith I. McConnell, Deputy Director
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
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