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May 15, 2008

When separated from its Enclosure, this document is DECONTROLLED.

EA-08-064

Mr. Charles G. Pardee
Chief Nuclear Officer (CNO) and Senior Vice President
Exelon Generation Company, LLC
Chief Nuclear Officer (CNO)
AmerGen Energy Company, LLC
200 Exelon Way
Kennett Square, PA 19348

SUBJECT: FINAL SIGNIFICANCE DETERMINATION FOR A GREATER THAN GREEN FINDING AND NOTICE OF VIOLATION [NRC PHYSICAL SECURITY BASELINE INSPECTION REPORT 05000289/2008402; THREE MILE ISLAND, UNIT 1]

Dear Mr. Pardee:

The purpose of this letter is to provide you the final results of our significance determination of the preliminary Greater than Green finding described in the subject inspection report. The inspection finding was assessed using the Significance Determination Process (SDP) and was preliminarily characterized as Greater than Green, a finding of greater than very low safety significance resulting in the need for further evaluation to determine significance and therefore the need for additional NRC action. Since this matter involved sensitive security-related information, no further description is contained in this letter.

In a telephone conversation with Mr. James Trapp of NRC, Region I, on March 28, 2008, Ms. Pamela Cowen of your staff indicated that Exelon Generation Company, LLC. (Exelon) did not contest the characterization of the risk significance of this finding and declined the opportunity to discuss this issue in a Regulatory Conference or provide a written response.

After considering the information developed during the inspection, the NRC has concluded that the inspection finding is appropriately characterized as Greater than Green. The referenced inspection report provided a preliminary significance determination that characterized the significance of this finding. Since you have chosen to provide no additional information, the significance determination provided to you in our letter, dated March 20, 2008, is considered final. Recognizing local sensitivities related to the identification of inattentive officers at another facility last year, the staff notes that this finding does not involve inattentive security officers.

You have 30 calendar days from the date of this letter to appeal the staff's determination of significance for the identified Greater than Green finding. Such appeals will be considered to

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have merit only if they meet the criteria given in the NRC Inspection Manual Chapter 0609, "Significance Determination Process." The NRC has also determined that this finding involved a violation of NRC requirements, as cited in the attached Notice of Violation (Notice). The Notice contains security-related information that will not be made available for public review. The circumstances surrounding the violation are described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, the Notice is considered an escalated enforcement action because it is associated with a Greater than Green finding.

Since the NRC understands your corrective actions for this violation, which were described in the referenced NRC inspection report, you are not specifically 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 respond, you should follow the instructions specified in the enclosed Notice when preparing your response. Further, because this issue involves security-related information, your written response, if you choose to provide one, will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response to this letter and Notice. This practice will ensure that your response will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system, ADAMS. However, to the extent possible, your response should not include any personal privacy, proprietary, or Safeguards Information. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21. Otherwise, mark your entire response "Security-Related Information - Withhold Under 10 CFR 2.390" and follow the instructions for withholding in 10 CFR 2.390(b)(1).

The NRC will use the NRC Action Matrix to determine the Agency's most appropriate response for this finding. We will notify you, by separate correspondence, of that determination. The enclosure to this letter contains Security-Related Information and, therefore, will not be made available electronically for public inspection in the NRC Public Document Room or from ADAMS. Further, the enclosure must be protected from unauthorized disclosure. In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, when separated from its enclosure, will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system, ADAMS.

Sincerely,

/RA/

Samuel J. Collins
Regional Administrator

Docket No. 50-289
License No. DPR-50

Enclosure: Notice of Violation ~~(CONTAINS OFFICIAL USE ONLY - SECURITY RELATED INFORMATION (OUO-SRI))~~

cc w/encl w/OUO-SRI:

D. Mohre, Security Manager, TMI

D. Allard, Director, PA Department of Environmental Protection

J. Powers, Director, PA Office of Homeland Security

cc w/o encl w/o OUO-SRI:

C. Crane, Executive Vice President and Chief Operating Officer, Exelon Generation

W. Noll, Site Vice President - TMI Unit 1, AmerGen

T. Dougherty, Plant Manager - TMI, Unit 1, AmerGen

Manager, Regulatory Assurance - TMI, Unit 1, AmerGen

Senior Vice President - Nuclear Services, AmerGen

Senior Vice President - Mid-Atlantic Operations, AmerGen

Senior Vice President - Operations Support, AmerGen

Vice President - Licensing and Regulatory Affairs, AmerGen

Director Licensing - AmerGen

Manager Licensing - TMI, AmerGen

Vice President - General Counsel and Secretary, AmerGen

T. O'Neill, Associate General Counsel, Exelon Generation Company

J. Fewell, Esq., Assistant General Counsel, Exelon Nuclear

Correspondence Control Desk - AmerGen

Chairman, Board of County Commissioners of Dauphin County

Chairman, Board of Supervisors of Londonderry Township

R. Janati, Director, Bureau of Radiation Protection, State of PA

J. Johnsrud, National Energy Committee

E. Epstein, TMI-Alert (TMIA)

R. French, Director, PA Emergency Management Agency

have merit only if they meet the criteria given in the NRC Inspection Manual Chapter 0609, "Significance Determination Process." The NRC has also determined that this finding involved a violation of NRC requirements, as cited in the attached Notice of Violation (Notice). The Notice contains security-related information that will not be made available for public review. The circumstances surrounding the violation are described in detail in the subject inspection report. In accordance with the NRC Enforcement Policy, the Notice is considered an escalated enforcement action because it is associated with a Greater than Green finding.

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Sincerely,
 /RA/
 Samuel J. Collins
 Regional Administrator

Docket No. 50-289
 License No. DPR-50

Enclosure: Notice of Violation (~~CONTAINS OFFICIAL USE ONLY – SECURITY RELATED INFORMATION (OUO-SRI)~~)

DOCUMENT NAME: S:\Enf-allg\Enforcement\Proposed-Actions\Region1\TMI Final Greater-than-Green Letter & NOV Control of SGI.doc

SUNSI Review Complete: JMT (Reviewer's Initials)

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Region I OE Files (with concurrences)