December 18, 2008

Mr. Thomas S. O'Neill
Vice President – New Plant Development
Exelon Generation
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: STAFF REVIEW OF THE COMBINED LICENSE APPLICATION FOR VICTORIA COUNTY STATION, UNITS 1 AND 2

Dear Mr. O'Neill:

By letter dated September 2, 2008, you tendered a combined license application (COLA) for two Economic Simplified Boiling Water Reactors (ESBWR) to be located in Victoria County, Texas, designated as Victoria County Station (VCS), Units 1 and 2. By letter dated October 30, 2008, the U.S. Nuclear Regulatory Commission (NRC) informed you that the staff had completed its acceptance review and had determined that your application was acceptable for docketing. In that letter we also informed you that the staff was developing a schedule for review of the application and would issue the schedule in early January 2009.

In a letter dated November 24, 2008, you informed the NRC that Exelon Nuclear Texas Holdings, LLC (Exelon) expects to designate an alternate reactor technology for the VCS Units 1 and 2 COLA. Additionally, in a filing dated December 15, 2008, you provided the Exelon response opposing a motion by Texans for a Sound Energy Policy (TSEP) to revoke the docketing decision and dismiss the licensing proceedings for VCS Units 1 and 2. The staff has reviewed your response to the TSEP motion, and your representation of which portions of the current COLA you believe can still be effectively reviewed by the NRC.

As you are aware, the Commission has authorized the staff to exercise discretion under 10 C.F.R. § 2.101(a)(3) in determining whether an application to construct and operate a utilization facility is complete and acceptable for docketing. In this instance, based on staff review of both the current COLA and your response to the TSEP motion, the NRC staff has decided to retain the application on its docket, but suspend the principal portion of the NRC review of your application. The exception to this suspension is the off-site emergency planning review, which is largely conducted by the Federal Emergency Management Agency. Based on staff recommendations, this is the only exception to our suspension of the review of your COLA. Consistent with our design centered review approach and integrated resource allocation process, we do not intend to continue our review beyond what is stated here. Further, as a result of your November 24, 2008, letter, the NRC is deferring development of a COLA review schedule for VCS Units 1 and 2. These actions are consistent with the NRC's practice of reviewing complete applications referencing a particular design in order to optimize the staff's review effort, the resources needed to perform the reviews, and the length of the overall review schedule.

Upon submittal of the revised COLA, the NRC will conduct acceptance and technical reviews, as the staff deems appropriate, and in consideration of resources and priorities at that point in time. The NRC will develop a schedule at the appropriate time after such reviews have been completed.

We request that you keep us informed of your ongoing activities related to your COLA as this will help us in our planning efforts to support your review. Should you have any questions, please contact Mr. Mark Tonacci at (301) 415-4045 or Mark.Tonacci@nrc.gov.

Sincerely,

/RA/

David B. Matthews, Director
Division of New Reactor Licensing
Office of New Reactors

Docket Nos. 52-031
52-032

cc: See next page

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/RA/

David B. Matthews, Director
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Docket Nos. 52-031
52-032

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