UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 2, 2009

Mr. Charles G. Pardee
President and Chief Nuclear Officer
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: CLINTON POWER STATION, UNIT NO. 1 - INDIVIDUAL NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND OPPORTUNITY FOR HEARING AND ORDER (TAC NO. ME1643)

Dear Mr. Pardee:

The U.S. Nuclear Regulatory Commission has forwarded the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing," and "Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation" to the Office of the Federal Register for publication.

This notice relates to your application dated June 26, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML091801061), as supplemented by letters dated November 4, 2009 (ADAMS Package No. ML093100316), November 17, 2009 (ADAMS Accession No. ML093210561) and November 20, 2009 (ADAMS Accession No. ML093280028), in which Exelon Generation Company (EGC), LLC (the licensee) proposed to modify License Condition 2.B.(6) and create new License Conditions 1.J and 2.B(7) as part of a pilot program to irradiate Cobalt (Co)-59 targets to produce Co-60, for the Clinton Power Station, Unit No. 1 (CPS). EGC also requests an amendment to Appendix A, Technical Specifications (TS), of the CPS Facility Operating License, which would modify TS 4.2.1, "Fuel Assemblies," to describe the isotope test assemblies being used.

If you have any questions, please contact me at 301-415-3719.

Sincerely,

Cameron S. Goodwin, Project Manager
Plant Licensing Branch III-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-461

Enclosure:
As stated

cc w/encl: Distribution via Listserv

7590-01-P

NUCLEAR REGULATORY COMMISSION

EXELON GENERATION COMPANY, LLC

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING AND ORDER IMPOSING PROCEDURES FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION (SUNSI) FOR CONTENTION PREPARATION

DOCKET NO. 50-461

The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62 issued to Exelon Generation Company, LLC (the licensee) for operation of the Clinton Power Station, Unit No. 1 (CPS), located in DeWitt County, Illinois.

The proposed amendment would modify License Condition 2.B.(6) and create new License Conditions 1.J and 2.B(7) as part of a pilot program to irradiate Cobalt (Co)-59 targets to produce Co-60, for the CPS. The licensee also requests an amendment to Appendix A, Technical Specifications (TS), of the CPS Facility Operating License, which would modify TS 4.2.1, "Fuel Assemblies," to describe the isotope test assemblies being used. The amendment application dated June 26, 2009, contains sensitive unclassified non-safeguards information (SUNSI). The amendment application is supplemented by letters dated November 4, 2009 (ADAMS Package No. ML093100316), November 17, 2009 (ADAMS Accession No. ML093210561), and November 20, 2009 (ADAMS Accession No. ML093280028).

Before issuance of the proposed 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.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

   Response: No.

   The proposed changes to the license conditions provide clarification and do not impact plant operation in any way. The handling of byproduct material (i.e., Co-60) will continue to be done in accordance with the requirements of 10 CFR 30 and the requirements of the CPS Facility Operating License. The proposed change to TS 4.2.1 also provides clarification and additional description of the proposed ITAs to be used in the CPS core. These changes provide clarification and do not involve an increase in the probability or consequences of an accident previously evaluated.

   The use of the GE14i ITAs, has been evaluated for impact on the previously evaluated transients and design basis accidents for CPS. GE-Hitachi report NEDC-33505P, "Safety Analysis Report to Support Introduction of GE14i Isotope Test Assemblies (ITAs) in Clinton Power Station," dated June 2009, documents the results of the analyses completed to demonstrate the impact on operation following introduction of the ITAs in the CPS core. The use of these ITAs does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration or the manner in which the plant is operated and maintained. The Cycle 13 (i.e., the first cycle of operation with the GE14i assembly) core, and subsequent cores, will be designed so that the ITAs will be placed in non-limiting locations with respect to thermal limit margins and shutdown margins. The ITAs do not adversely affect the ability of any structures,

systems or components (SSCs) to perform their intended safety function to mitigate the consequences of an initiating event within the assumed acceptance limits.

In addition to evaluation of the impact to operation with the introduction of the GE14i assemblies, EGC has also evaluated the effects of these assemblies on post-irradiation conditions. The additional heat from the Co-60 decay is insignificant when compared to the total heat from a normal refueling discharge. The small amount of extra heat added by the cobalt isotope rods poses no additional risk of spent fuel pool (SFP) local boiling over that previously analyzed. The maximum incident radiation due to an irradiated GE14i bundle placed one foot from the spent fuel pool walls is in excess of the radiation that would result in significant gamma heating of the concrete. However, analysis has demonstrated that at four feet, the energy deposition rate is well below that required to cause significant concrete heating. CPS procedures exist to guide placement of irradiated fuel bundles in the SFP to avoid gamma heating of the wall concrete. These procedures will be modified to specify that the irradiated GE14i bundles be stored at least four feet from the pool walls. With the four foot distance requirement in effect, there is no limitation on the amount of time an irradiated GE14i bundle may remain in the pool.

Handling of the licensed transfer casks will be in accordance with the guidance in NUREG 0612, "Control of Heavy Loads at Nuclear Power Plants," using the Fuel Building Crane. These precautions will support safe movement of the casks within the Fuel Building.

The consequences of a previously analyzed event are dependent on the initial conditions assumed in the analysis, the availability and successful functioning of equipment assumed to operate in response to the analyzed event, and the setpoints at which these actions are initiated. The consequences of a previously evaluated accident are not significantly increased by the proposed change. As documented in NEDC-33505P, the proposed change does not affect the performance of any equipment credited to mitigate the radiological consequences of an accident. Evaluation of operation with the GE14i assemblies in the CPS core, demonstrated that the licensing basis radiological analyses are not impacted by the introduction of eight GE14i assemblies at CPS. This includes the analyses done for transients and design basis accident events.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

   Response: No.

   The proposed revision to the CPS license conditions and TS 4.2.1 will not introduce any new or modified equipment since these changes are intended to provide clarification only. These clarifications will not result in operation of the facility in a different way than currently operated.

While the proposed ITA program does result in the introduction of several modified fuel assemblies (i.e., the GE14i assembly), these assemblies are essentially the same as the GE14 assemblies currently in use in the CPS core. The only difference being the use of a number of isotope rods in place of fuel rods. The GE14i assembly was designed for mechanical, nuclear, and thermal-hydraulic compatibility with the GE14 fuel design. The details of the design differences between the GE14 and GE14i are documented in NEDC-33505P. Use of the proposed ITAs does not involve the addition or modification of any plant equipment other than the assemblies modified to include the cobalt target rods. Also, use of the proposed ITAs will not alter the design configuration or method of operation of plant equipment beyond its normal functional capabilities. The ITA program does not create any new credible failure mechanisms, malfunctions or accident initiators.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

   Response: No.

   The proposed change to the CPS operating license conditions are intended to provide clarification as to how the generation of byproduct material in the CPS reactor core meets the requirements of 10 CFR Part 30. The proposed change to TS 4.2.1 also provides clarification and additional description of the proposed ITAs to be used in the CPS core. These proposed changes would not affect the design or operation of any equipment important to safety. In addition, since the proposed changes to the license conditions and TS provide clarification only, these changes do not affect the results of any safety calculations.

   Cycle specific analyses will be performed for CPS Reload 12 Cycle 13 to establish fuel operating limits for the ITAs that assure compliance with regulatory limits. Results of these analyses will be documented in the CPS Reload 12 Cycle 13 Supplemental Reload Licensing Report. Furthermore, licensing analyses will be performed for the ITAs for each cycle of their operation, wherein the effect of the ITAs is considered for each of the appropriate licensing events and anticipated operational occurrences (AOOs) to establish the appropriate reactor thermal limits for operation.

   The proposed introduction of the ITAs has no impact on equipment design or fundamental operation, other than the modifications made to the fuel assembly as part of the program. There are no changes being made to safety limits or safety system allowable values that would adversely affect plant safety as a result of the proposed ITAs. The performance of the systems important to safety is not significantly affected by the use of the proposed ITAs. The margin of safety can be affected by the thermal limits existing at the time of the postulated accident; however, the ITA design has been evaluated and demonstrated to have no significant effect on the calculated thermal limits as described above. The proposed change does not affect safety analysis assumptions or initial conditions and therefore, the margin of safety in the original safety analyses is maintained.

As documented above, the proposed change does not involve a significant reduction in a margin of safety .

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the *Federal Register* a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking and Directives Branch, TWB-05-B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be faxed to the Chief, Rulemaking and Directives Branch at 301-492-3446. Documents may be examined,

and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide 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/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: 1) the name, address and telephone number of the requestor or petitioner; 2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; 3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the

proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory 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 an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov*, or by telephone at (301) 415-1677, to request (1) a digital 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 (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

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*. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant 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 documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing 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 E-Filing 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 using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at *MSHD.Resource@nrc.gov*, or by toll-free call at (866) 672-7640. The NRC Meta-System Help

Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 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. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

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, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. 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.

Petitions for leave to intervene must be filed no later than 60 days from **[INSERT DATE OF PUBLICATION IN FEDERAL REGISTER]**. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment dated June 24, 2009, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the 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, 301-415-4737, or by e-mail to *pdr.resource@nrc.gov*.

Attorney for Licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to

respond to this notice may request such access. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov*, respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this *Federal Register* notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

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[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

IT IS SO ORDERED. Dated at Rockville, Maryland, this 9th day of December 2009.

For the Commission.

/RA/

Annette L. Vietti-Cook,
Secretary of the Commission.

ATTACHMENT 1--General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in this Proceeding

Day	Event/Activity
0	Publication of *Federal Register* notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.

Day	Event/Activity
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

December 2, 2009

Mr. Charles G. Pardee
President and Chief Nuclear Officer
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: CLINTON POWER STATION, UNIT NO. 1 - INDIVIDUAL NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND OPPORTUNITY FOR HEARING AND ORDER (TAC NO. ME1643)

Dear Mr. Pardee:

The U.S. Nuclear Regulatory Commission has forwarded the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing," and "Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information (SUNSI) for Contention Preparation" to the Office of the Federal Register for publication.

This notice relates to your application dated June 26, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML091801061), as supplemented by letters dated November 4, 2009 (ADAMS Package No. ML093100316), November 17, 2009 (ADAMS Accession No. ML093210561) and November 20, 2009 (ADAMS Accession No. ML093280028), in which Exelon Generation Company (EGC), LLC (the licensee) proposed to modify License Condition 2.B.(6) and create new License Conditions 1.J and 2.B(7) as part of a pilot program to irradiate Cobalt (Co)-59 targets to produce Co-60, for the Clinton Power Station, Unit No. 1 (CPS). EGC also requests an amendment to Appendix A, Technical Specifications (TS), of the CPS Facility Operating License, which would modify TS 4.2.1, "Fuel Assemblies," to describe the isotope test assemblies being used.

If you have any questions, please contact me at 301-415-3719.

Sincerely,

/RA/
Cameron S. Goodwin, Project Manager
Plant Licensing Branch III-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-461

Enclosure:
As stated
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DATE	12/2/09	11/20/09	12/02/09	12/2/09

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