



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

July 16, 2010

Mr. Michael J. Pacilio  
President and Chief Nuclear Officer  
Exelon Generation Company, LLC  
4300 Winfield Road  
Warrenville, IL 60555

SUBJECT: PEACH BOTTOM ATOMIC POWER STATION, UNIT 2 - INDIVIDUAL NOTICE  
OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY  
OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS  
CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING  
(TAC NO. ME3994)

Dear Mr. Pacilio:

The U.S. Nuclear Regulatory Commission has forwarded the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing," to the Office of the Federal Register for publication.

This notice relates to your application dated May 27, 2010 (Agencywide Documents Access and Management System Accession No. ML101480555). The submittal requests revision to Technical Specification 2.1.1, "Reactor Core SLs [safety limits]" to reflect revised Safety Limit Minimum Critical Power Ratio values for operating cycle 19.

If you have any questions, please contact me at 301-415-3204.

Sincerely,

A handwritten signature in black ink, reading "John D. Hughey", is written over a horizontal line.

John D. Hughey, Project Manager  
Plant Licensing Branch I-2  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-277

Enclosure:  
Notice of Consideration

cc w/encl: Distribution via Listserv

NUCLEAR REGULATORY COMMISSION

EXELON GENERATION COMPANY, LLC

PSEG NUCLEAR, LLC

DOCKET NO. 50-277

[NRC-2010-XXXX]

NOTICE OF CONSIDERATION OF ISSUANCE OF

AMENDMENT TO FACILITY OPERATING LICENSE FOR

PEACH BOTTOM ATOMIC POWER STATION, UNIT 2

OPPORTUNITY FOR A HEARING, AND ORDER IMPOSING PROCEDURES FOR ACCESS  
TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Order and notice of license amendment request, opportunity to comment, opportunity to request a hearing.

**DATES:** Comments must be filed by **[INSERT DATE: 30 DAYS FROM THE DATE OF PUBLICATION OF THIS FEDERAL REGISTER NOTICE]**. A request for a hearing must be filed by **[INSERT DATE: 60 DAYS FROM THE DATE OF PUBLICATION OF THIS FEDERAL REGISTER NOTICE]**.

**ADDRESSES:** Please include Docket ID NRC-2010-XXXX in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC website and on the Federal rulemaking website <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their

comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You may submit comments by any one of the following methods.

**Federal Rulemaking Website:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2010-XXXX. Comments may be submitted electronically through this website. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

**Mail comments to:** Chief, Rules, Announcements and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by fax to RADB at (301) 492-3446.

You can access publicly available documents related to this notice using the following methods:

**NRC's Public Document Room (PDR):** The public may examine, and have copied for a fee, publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. These documents may also be viewed electronically on the public computers located at the NRC's PDR at 11555 Rockville Pike, Rockville, Maryland 20852.

**NRC's Agencywide Documents Access and Management System (ADAMS):**

Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdresource@nrc.gov](mailto:pdresource@nrc.gov). The application for amendment, dated May 27, 2010, contains Proprietary Information and, accordingly, those portions are being withheld

from public disclosure. A redacted version of the application for amendment, dated May 27, 2010, is available electronically under ADAMS Accession No. ML101480555.

**Federal Rulemaking Web site:** Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID: NRC-2010-XXXX.

**FOR FURTHER INFORMATION CONTACT:** John Hughey, Project Manager, Plant Licensing Branch I-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-3204; fax number: 301-415-2102; e-mail: [John.Hughey@nrc.gov](mailto:John.Hughey@nrc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR-44, issued to Exelon Generation Company, LLC, and PSEG Nuclear, LLC, (licensee) for operation of the Peach Bottom Atomic Power Station (PBAPS), Unit 2, located in York and Lancaster Counties, Pennsylvania.

The proposed amendment would revise the PBAPS, Unit 2, Technical Specification Section 2.1.1 to revise Safety Limit Minimum Critical Power Ratio (SLMCPR) values. The SLMCPR is established to assure that at least 99.9% of the fuel rods in the core do not experience boiling transition during normal operation and abnormal operating transients. The amendment application is dated May 27, 2010, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML101480555).

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 derivation of the cycle specific Safety Limit Minimum Critical Power Ratios (SLMCPRs) for incorporation into the Technical Specifications (TS), and their use to determine cycle specific thermal limits, has been performed using the methodology discussed in NEDE-24011-P-A, "General Electric Standard Application for Reactor Fuel," Revision 16.

The basis of the SLMCPR calculation is to ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated. [This acceptance criterion is consistent with the existing criterion as discussed in Section 3.7.3 of the PBAPS Updated Final Safety Analysis Report.] The new SLMCPRs preserve the existing margin to transition boiling.

The MCPR safety limit is reevaluated for each reload using NRC-approved methodologies. The analyses for Peach Bottom Atomic Power Station (PBAPS), Unit 2, Cycle 19 have concluded that a two loop MCPR safety limit of  $\geq$  [greater than or equal to] 1.10, based on the application of Global Nuclear Fuel's NRC-approved MCPR safety limit methodology, will ensure that this acceptance criterion is met. For single-loop operation, a MCPR safety limit of  $\geq$  [greater than or equal to] 1.14 also ensures that this acceptance criterion is met. The MCPR operating limits are presented and controlled in accordance with the PBAPS, Unit 2 Core Operating Limits Report (COLR).

The requested Technical Specification changes do not involve any plant modifications or operational changes that could affect system reliability or performance or that could affect the probability of operator error. The requested

changes do not affect any postulated accident precursors, do not affect any accident mitigating systems, and do not introduce any new accident initiation mechanisms. Therefore, the proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

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

Response: No.

The SLMCPR is a TS numerical value, calculated to ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated. The new SLMCPRs are calculated using NRC-approved methodology discussed in NEDE-24011-P-A, "General Electric Standard Application for Reactor Fuel," Revision 16. The proposed changes do not involve any new modes of operation, any changes to setpoints, or any plant modifications. The proposed revised MCPR safety limits have been shown to be acceptable for Cycle 19 operation. The core operating limits will continue to be developed using NRC-approved methods. The proposed MCPR safety limits or methods for establishing the core operating limits do not result in the creation of any new precursors to an accident. Therefore, this 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.

There is no significant reduction in the margin of safety previously approved by the NRC as a result of the proposed change to the SLMCPRs. The new SLMCPRs are calculated using methodology discussed in NEDE-24011-P-A, "General Electric Standard Application for Reactor Fuel," Revision 16. The SLMCPRs ensure that during normal operation and during abnormal operational transients, at least 99.9% of all fuel rods in the core do not experience transition boiling if the limit is not violated, thereby preserving the fuel cladding integrity. Therefore, the proposed TS changes do not involve a significant reduction in the margin of safety previously approved by the NRC.

The NRC staff has reviewed the licensee's analysis and, based on this review with the NRC staff changes noted in square brackets above, 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 by [INSERT DATE: 30 DAYS FROM THE DATE OF PUBLICATION OF THIS FEDERAL REGISTER NOTICE] will be considered in making any final determination. You may submit comments using any of the methods discussed under the ADDRESSES caption.

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.

## **II. Opportunity to Request a Hearing**

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing requests, Petitions to Intervene, Requirements for Standing, and Contentions." Interested persons should consult 10 CFR Part 2, Section 2.309, which is available at the NRC's Public Document Room (PDR), located at O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at (800) 397-4209 or (301) 415-4737). NRC regulations are also accessible electronically from the NRC's Electronic Reading Room on the NRC Web site at <http://www.nrc.gov>.

## **III. Petitions for Leave to Intervene**

Any person whose interest may be affected by this proceeding and who wishes to

participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the requestor/petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the requestor or petitioner and specifically explain the reasons why the intervention should be permitted with particular reference to the following factors: (1) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) 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 requestor/petitioner seeks to have litigated at the proceeding.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the requestor/petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the requestor/petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the requestor/petitioner and on which the requestor/petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the requestor/petitioner disputes and the supporting reasons for each dispute, or, if the requestor/petitioner believes that the application



for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requestors/petitioner's belief. Each contention must be one that, if proven, would entitle the requestor/petitioner to relief.

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 with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

A State, county, municipality, Federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by **[INSERT DATE: 60 DAYS FROM THE DATE OF PUBLICATION OF THIS FEDERAL REGISTER NOTICE]**. The petition must be filed in accordance with the filing instructions in Section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by **[INSERT DATE: 60 DAYS FROM THE DATE OF PUBLICATION OF THIS FEDERAL REGISTER NOTICE]**.

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.

#### **IV. Electronic Submissions (E-Filing)**

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](mailto: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 Web site 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 Web site 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 Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a 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](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).

**Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information 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 requester 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](mailto:Hearing.Docket@nrc.gov) and [OGCmailcenter@nrc.gov](mailto:OGCmailcenter@nrc.gov), respectively.<sup>1</sup> The request must include the following information:

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

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<sup>1</sup> 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.

(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 requester'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 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<sup>2</sup> 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.

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<sup>2</sup> 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.

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.

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 requester 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 requester 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.<sup>3</sup>

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 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        day of July, 2010.

For the Commission.

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

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<sup>3</sup> Requesters 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.

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

<b>Day</b>	<b>Event/Activity</b>
0	Publication of <i>Federal Register</i> 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 requester 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 petitioner/requester 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.

<b>Day</b>	<b>Event/Activity</b>
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.

July 16, 2010

Mr. Michael J. Pacilio  
President and Chief Nuclear Officer  
Exelon Generation Company, LLC  
4300 Winfield Road  
Warrenville, IL 60555

SUBJECT: PEACH BOTTOM ATOMIC POWER STATION, UNIT 2 - INDIVIDUAL NOTICE  
OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY  
OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS  
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR HEARING  
(TAC NO. ME3994)

Dear Mr. Pacilio:

The U.S. Nuclear Regulatory Commission has forwarded the enclosed "Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing," to the Office of the Federal Register for publication.

This notice relates to your application dated May 27, 2010 (Agencywide Documents Access and Management System Accession No. ML101480555). The submittal requests revision to Technical Specification 2.1.1, "Reactor Core SLs [safety limits]" to reflect revised Safety Limit Minimum Critical Power Ratio values for operating cycle 19.

If you have any questions, please contact me at 301-415-3204.

Sincerely,

/ra/

John D. Hughey, Project Manager  
Plant Licensing Branch I-2  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-277

Enclosure:  
Notice of Consideration

cc w/encl: Distribution via Listserv

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