

10 CFR 50.90

RS-10-140  
August 20, 2010

U. S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

LaSalle County Station, Units 1 and 2  
Facility Operating License Nos. NPF-11 and NPF-18  
NRC Docket Nos. 50-373 and 50-374

Subject: Supplemental Information Concerning License Amendment to Allow Receipt and Storage of Low-Level Radioactive Waste at LaSalle County Station, Units 1 and 2

- References:
- 1) Letter from D. M. Benyak (Exelon Generation Company, LLC) to U. S. NRC, "Request for License Amendment to Allow Receipt and Storage of Low-Level Radioactive Waste at LaSalle County Station, Units 1 and 2," dated January 6, 2010
  - 2) Letter from C. Goodwin (U. S. NRC) to M. J. Pacilio (Exelon Generation Company, LLC), "LaSalle County Station, Units 1 and 2 - Request for Additional Information Related to Request for License Amendment to Allow Receipt and Storage of Low-Level Radioactive (TAC Nos. ME3054 thru ME3055)," dated July 14, 2010.

In Reference 1, Exelon Generation Company, LLC (EGC) submitted a request to amend Facility Operating License (FOL) Nos. NPF-11 and NPF-18 for LaSalle County Station (LSCS), Units 1 and 2, respectively. The proposed change will enable LSCS to store Class B and Class C low-level radioactive waste (LLRW) from Braidwood Station, Units 1 and 2 (Braidwood), Byron Station, Units 1 and 2 (Byron), and Clinton Power Station, Unit 1 (CPS) in the LSCS Interim Radwaste Storage Facility (IRSF).

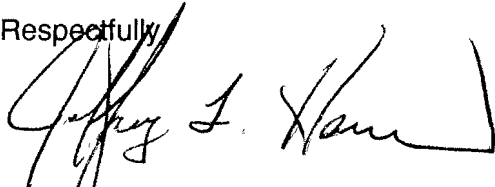
In Reference 2, the NRC forwarded requests for additional information (RAIs) concerning the Reference 1 license amendment request. Attachment 1 to this letter provides the information requested by the NRC. In addition, the proposed changes to the LSCS Unit 1 and Unit 2 FOLs have been revised and are being re-submitted as Attachment 2.

EGC has reviewed the information supporting a finding of no significant hazards consideration, and the environmental consideration that were previously provided to the NRC in Reference 1. The additional information provided in this submittal does not affect the bases for concluding that the proposed license amendment does not involve a significant hazards consideration. In addition, the additional information provided in this submittal does not affect the bases for concluding that neither an environmental impact statement nor an environmental assessment is required for the proposed amendment. There are no regulatory commitments in this letter or the attachment.

Should you have any questions or require additional information, please contact Mr. John L. Schrage at (630) 657-2821.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 20th day of August 2010.

Respectfully



Jeffrey L. Hansen  
Manager - Licensing  
Exelon Generation Company, LLC

Attachments:

1. Response to Requests for Additional Information
2. Revision to Proposed Mark-up of LSCS Units 1 and 2 Facility Operating Licenses NPF-11 and NPF-18

cc: Administrator – NRC Region III  
NRC Project Manager, NRR – LaSalle County Station  
Illinois Emergency Management Agency – Division of Nuclear Safety Resources

## Attachment 1

### Response to Requests for Additional Information Proposed Change to Facility Operating Licenses NPF-11 and NPF-18 LaSalle County Station Units 1 and 2

By letter dated January 6, 2010, Exelon Generation Company, LLC (EGC) submitted a request to amend Facility Operating License (FOL) Nos. NPF-11 and NPF-18 for LaSalle County Station (LSCS), Units 1 and 2, respectively. The proposed change will enable LSCS to store Class B and Class C low-level radioactive waste (LLRW) from Braidwood Station, Units 1 and 2 (Braidwood), Byron Station, Units 1 and 2 (Byron), and Clinton Power Station, Unit 1 (CPS) in the LSCS Interim Radwaste Storage Facility (IRSF).

#### **NRC Requests for Additional Information (RAI)**

"In reviewing the Exelon Generation Company's (Exelon's) submittal dated January 6, 2010 (Agencywide Documents Access and Management System Accession No. ML 100070297), related to a request to revise license paragraph 2.B.(5), for the LaSalle County Station (LSCS), Units 1 and 2, the Nuclear Regulatory Commission staff has determined that the following information is needed in order to complete its review:"

#### **NRC RAI 1**

"A discussion of how any off-site generated waste would be managed, tracked and differentiated from LSCS waste, with respect to any delineation of operating costs for the LSCS low-level radioactive waste storage facility and ultimate waste disposal or decommissioning costs; and whether there would be any resulting impacts on insurance or decommissioning financial assurance for LSCS."

#### **Exelon Generation Company, LLC Response**

Upon generation of a Class B or Class C LLRW liner at any EGC nuclear station, EGC establishes an accounting liability for the station that generated the liner, equivalent to the expected disposal cost. This accounting liability will be the responsibility of the station that generated the liner, and will be accounted for as such, regardless of the location of the LLRW liner. This will ensure, upon ultimate disposal of the Class B or Class C LLRW liner that the actual disposal cost is borne by the station that generated the liner.

Similarly, the EGC financial accounting system and manual allocation processes have the ability to allocate the ongoing operational costs, including direct costs associated with receipt and eventual shipment of Class B and Class C LLRW liners, to the facility that generated the liner. EGC has implemented a similar system for allocating costs associated with the loading and on-site transport of spent fuel in dry cask storage systems and allocating ongoing operating costs for the associated independent spent fuel storage installations.

These financial accounting and manual allocation processes will ensure that the storage of Braidwood, Byron, and CPS Class B and Class C LLRW liners in the LSCS IRSF, and the eventual disposal of these liners, will not impact the decommissioning financial assurance for LSCS, since all of these costs will be accounted for as operating costs at the facility that generated the waste.

In addition, these financial accounting and manual allocation processes will ensure that the storage of Class B and Class C LLRW from Braidwood, Byron and CPS within the LSCS IRSF does not constitute either implicitly or explicitly, "commercial storage," as described in NRC Generic Letter 85-14, "Commercial Storage at Power Reactor Sites of Low-Level Radioactive Waste Not Generated by the

## Attachment 1

### Response to Requests for Additional Information Proposed Change to Facility Operating Licenses NPF-11 and NPF-18 LaSalle County Station Units 1 and 2

Utility." The strict allocation of costs for the handling, storage, and eventual disposal of LLRW from Braidwood, Byron, and CPS precludes consideration of the storage option as a commercial venture.

In accordance with the Atomic Energy Act of 1954, as amended (the Act), Section 170, "Indemnification and Limitation of Liability," and 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," EGC has established the required amount of financial protection to cover public liability claims. This includes the establishment of an indemnity agreement with the NRC (i.e., Indemnity Agreement No. B-84, Amendment No. 7), which was issued to EGC on January 12, 2001 as an enclosure to conforming amendments 146 and 132 to LSCS Facility Operating Licenses NPF-11 and NPF-18. With respect to the storage of Class B and Class C LLRW from Braidwood, Byron, and CPS at LSCS, Indemnity Agreement No. B-84 limits the applicability of the agreement to LLRW produced as a result of the operation of LSCS.

However, EGC has also established additional nuclear liability policies (i.e., Facility Form and Master Worker) with American Nuclear Insurers (ANI), in accordance with the requirements of the Act and 10 CFR Part 140. The NRC confirmed this compliance in amendments 146 and 132 to FOLs NPF-11 and NPF-18, respectively. Regulatory Finding 1.F of NPF-11 and NPF-18 states that EGC "has satisfied the applicable provisions of 10 CFR Part 140, 'Financial Protection Requirements and Indemnity Agreements,' of the Commission's regulations."

The additional liability policies that EGC has established with ANI, which were transmitted to and referenced by the NRC in Amendments 146 and 132 to NPF-11 and NPF-18, do not impose a coverage limitation as to the source of LLRW. EGC, in consultation with ANI, has determined that these existing policies provide an acceptable level of financial protection for the proposed storage option. No objections or recommendations have been issued by ANI.

EGC is also required, by the Price-Anderson Act, to participate in the Secondary Financial Protection (SFP) program. The SFP follows the form of the underlying Facility Form and Master Worker policies (i.e., the ANI liability policies), and therefore would not be limited based on the origin of the LLRW.

EGC is also required to provide financial assurance in accordance with 10 CFR Part 50.54(w). EGC purchases nuclear property policies from Nuclear Electric Insurance Limited (NEIL). To comply with this requirement, EGC has, in consultation with NEIL, determined that these existing policies provide an acceptable level of financial protection for the proposed storage option. No objections or recommendations have been issued by NEIL.

#### **NRC RAI 2**

"A discussion of any legal authority enjoyed by the State of Illinois, as an Agreement State, with regard to the proposed transportation to and storage of low-level radioactive waste (LLRW) at LSCS."

#### **EGC Response**

In accordance with Section 174 of the Act, "Cooperation With States," subsection b, the NRC executed an agreement with the State of Illinois, dated May 14, 1987 providing for the discontinuance by the Commission and assumption by the State of Illinois certain Commission regulatory authority, thus establishing the State of Illinois as an Agreement State.

## Attachment 1

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Section 274, subsection c. of the Act states that "no agreement entered into pursuant to subsection b of the Act shall provide for the discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of any production or utilization facility." This separation of regulatory authority is acknowledged in Article II of the May 14, 1987 agreement, as well as in Illinois Compiled Statutes (ILCS).

Specifically, the Illinois Nuclear Facility Safety Act (420 ILCS 10/2, Section 2) states that "it is the intent of the [Illinois] General Assembly that the Illinois Emergency Management Agency (IEMA) should not take any actions which are preempted by federal law or engage in dual regulation of nuclear facilities, unless allowed by federal law or policies of the NRC."

With respect to LLRW storage, the Illinois Low-Level Radioactive Waste Management Act (420 ILCS 20) stipulates that IEMA is responsible for numerous activities in a comprehensive program for managing low-level radioactive waste, including the collection of fees from generators of this type of waste. This law was promulgated in response to the Low-Level Waste Policy Act of 1980, and is primarily focused upon the design, development, and operation of a LLRW disposal facility necessary to protect human health and the environment, away from the point of generation.

By referencing Section 274, subsection b. of the Act, the Illinois Low-Level Radioactive Waste Management Act, in Section 2.(b), affirms that the state's regulatory authority for LLRW storage does not extend to storage at a production or utilization facility. Thus, the legal authority granted to the State of Illinois by the NRC does not extend to the storage of LLRW at any nuclear power plant in the state.

Section 70, "Nuclear and radioactive materials transportation plan," of the Illinois Nuclear Safety Law of 2004 (20 ILCS 3310/70) defines the State of Illinois' legal authority concerning the transportation of radioactive material in the state. This section states that the IEMA "shall have primary responsibility for all State governmental regulation of the transportation of nuclear and radioactive materials, insofar as the regulation pertains to the public health and safety."

This section of the Illinois Nuclear Safety Law is implemented by Title 32 of the Illinois Administrative Code, "Energy," Part 341, "Radioactive Materials Transportation" (32 Ill Admin. Code 341). Section 341.10, "Scope," states that Part 341 applies to each licensee who transports licensed material outside the site where the licensee is authorized to possess and use the material. This section of the statute also requires that a licensee transporting radioactive material shall comply with the applicable requirements in 10 CFR Part 71 and 49 CFR Parts 170 through 189. Although Braidwood, Byron, CPS, and LSCS are not licensed by the State of Illinois, the 10 CFR Part 50 licenses for each station also require compliance with these regulations for the transportation and receipt of radioactive material.

### **NRC RAI 3**

"The amendment request states that no Class A LLRW from Braidwood, Byron and Clinton Power Station (CPS) will be stored at LSCS. However, the proposed license change would allow storage of Braidwood, Byron and CPS Class A, as well as Class B and C, LLRW at LSCS. A justification for the storage of Class A LLRW from Braidwood, Byron and CPS at LSCS is required."

## Attachment 1

### Response to Requests for Additional Information Proposed Change to Facility Operating Licenses NPF-11 and NPF-18 LaSalle County Station Units 1 and 2

#### **EGC Response**

In the cover letter and Attachment 1 of the January 6, 2010 LAR, EGC stated:

*"Specifically, the revised license paragraph would enable EGC to store LLRW generated at Braidwood, Byron, and CPS in the LSCS IRSF. The LSCS IRSF already provides storage for LLRW generated at LSCS."*

The intent of this statement, as well as the LAR, was to receive and store Class B and Class C LLRW from Braidwood, Byron and CPS within the LSCS IRSF. EGC does not intend to, nor does the LAR request permission to store Class A LLRW from Braidwood, Byron and CPS within the LSCS IRSF.

Attachment 1 of the January 6, 2010 LAR also stated:

*"Due to the inability to ship Class B/C LLRW to an external disposal facility, the LSCS IRSF will be used to store primarily Class B/C LLRW, as well as Class A LLRW, if needed."*

The intent of this statement was to describe the immediate impact on LSCS of the closure of the EnergySolutions, LLC LLRW disposal facility in Barnwell, South Carolina (EnergySolutions - Barnwell). That is, due to the closure of EnergySolutions – Barnwell, EGC would use the LSCS IRSF to store Class B and Class C LLRW generated at LSCS and, if needed, EGC would use the LSCS IRSF to store Class A LLRW that was generated at LSCS. As stated above, EGC does not intend to, nor does the LAR request permission to store Class A LLRW from Braidwood, Byron and CPS within the LSCS IRSF.

Nevertheless, EGC agrees that the proposed change to the LSCS Units 1 and 2 FOL would not prevent EGC from storing Class A LLRW generated at Braidwood, Byron and CPS within the LSCS IRSF. As such, Attachment 2 provides a revision to the proposed FOL change that will limit the applicability of the revised FOL to storage of Class B and Class C LLRW from Braidwood, Byron and CPS within the LSCS IRSF.

#### **NRC RAI 4**

"The No Significant Hazards Consideration (NHSC) provided with the license amendment request does not address the potential for storage of Class A LLRW from Byron, Braidwood, and CPS at LSCS. The NHSC needs to be revised to address the storage of Class A LLRW at LSCS."

#### **EGC Response**

As stated in the response to NRC RAI 3 above, the intent of the January 6, 2010 LAR was to enable LSCS to receive and store Class B and Class C LLRW from Braidwood, Byron and CPS within the LSCS IRSF. EGC does not intend to, nor does the LAR request permission to store Class A LLRW from Braidwood, Byron and CPS within the LSCS IRSF.

EGC agrees that the proposed change to the LSCS Units 1 and 2 FOLs would not prevent EGC from storing Class A LLRW generated at Braidwood, Byron and CPS within the LSCS IRSF. As such, Attachment 2 provides a revision to the proposed FOL change that will limit the applicability of the revised FOL to storage of Class B and Class C LLRW from Braidwood, Byron and CPS within the LSCS IRSF.

## Attachment 1

### Response to Requests for Additional Information Proposed Change to Facility Operating Licenses NPF-11 and NPF-18 LaSalle County Station Units 1 and 2

EGC has reviewed the information supporting a finding of no significant hazards consideration, and the environmental consideration that were previously provided to the NRC in the January 6, 2010 LAR. The additional information provided in this submittal, including the revision to the proposed FOL change, does not affect the bases for concluding that the proposed license amendment does not involve a significant hazards consideration. In addition, the additional information provided in this submittal does not affect the bases for concluding that neither an environmental impact statement nor an environmental assessment is required for the proposed amendment.

Attachment 2

Revision to Proposed Mark-up of LSCS Units 1 and 2  
Facility Operating Licenses NPF-11 and NPF-18

Facility Operating License No. NPF-11  
Page 3

Facility Operating License No. NPF-18  
Page 3



Am. 146  
01/12/01

(4) Exelon Generation Company, LLC, pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and

Am. 146  
01/12/01

(5) Exelon Generation Company, LLC, pursuant to the Act and 10 CFR Parts 30, 40, and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of LaSalle County Station, Units 1 and 2.

C. This license shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter I and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

(1) Maximum Power Level

The licensee is authorized to operate the facility at reactor core power levels not in excess of full power (3489 megawatts thermal).

Am. 195  
09/16/09

(2) Technical Specifications and Environmental Protection Plan

The Technical Specifications contained in Appendix A, as revised through Amendment No. 195, and the Environmental Protection Plan contained in Appendix B, are hereby incorporated in the license. The licensee shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

Am. 194  
08/28/09

(3) DELETED

Am. 194  
08/28/09

(4) DELETED

Am. 194  
08/28/09

(5) DELETED

Am. 194  
08/28/09

(6) DELETED

Am. 194  
08/28/09

(7) DELETED

, and such Class B and Class C low-level radioactive waste as may be produced by the operation of Braidwood Station, Units 1 and 2, Byron Station, Units 1 and 2, and Clinton Power Station, Unit 1.

Am. 34  
12/08/87 (5) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of LaSalle County Station, Units 1 and 2.

C. The license shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter I and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

Am. 125  
05/09/00 (1) Maximum Power Level  
  
The licensee is authorized to operate the facility at reactor core power levels not in excess of full power (3489 megawatts thermal). Items in Attachment 1 shall be completed as specified. Attachment 1 is hereby incorporated into this license.

Am. 182  
09/16/09 (2) Technical Specifications and Environmental Protection Plan  
  
The Technical Specifications contained in Appendix A, as revised through Amendment No. 182, and the Environmental Protection Plan contained in Appendix B, are hereby incorporated in the license. The licensee shall operate the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

Am. 181  
08/28/09 (3) DELETED

Am. 181  
08/28/09 (4) DELETED

Am. 181  
08/28/09 (5) DELETED

Am. 181  
08/28/09 (6) DELETED

Am. 181  
08/28/09 (7) DELETED

Am. 181  
08/28/09 (8) DELETED

Am. 181  
08/28/09 (9) DELETED

, and such Class B and Class C low-level radioactive waste as may be produced by the operation of Braidwood Station, Units 1 and 2, Byron Station, Units 1 and 2, and Clinton Power Station, Unit 1.