

BLACKBURN CARTER

A Professional Corporation - Lawyers

4709 Austin Street, Houston, Texas 77004
Telephone (713) 524-1012 ♦ Telefax (713) 524-5165

www.blackburncarter.com

JAMES B. BLACKBURN, JR

MARY W. CARTER

CHARLES W. IRVINE

ADAM M. FRIEDMAN

MARY B. CONNER

KRISTI J. DENNEY

CHARLES W. IRVINE

Sender's E-Mail: charles@blackburncarter.com

December 2, 2010

Via E-mail: Hearing.Docket@nrc.gov and Federal Express

Rulemakings and Adjudications Staff

Office of the Secretary

U.S. Nuclear Regulatory Commission

11555 Rockville Pike

Rockville, MD 20852

Re: *Exelon Nuclear Texas Holdings, LLC, Early Site Permit Application for the Victoria County Station Site, Notice of Hearing, Opportunity To Petition for Leave To Intervene, and Associated Order Imposing Procedures for Access to Sensitive Unclassified Non- Safeguards Information and Safeguards Information for Contention Preparation, 75 Fed. Reg. 71467 (Nov. 23, 2010)*

Dear Rulemakings and Adjudications Staff:

Pursuant to the Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation, 75 Fed. Reg. at 71470, Texans for a Sound Energy Policy ("TSEP") submits the following request for access to Sensitive Unclassified Non-Safeguards Information ("SUNSI"):

1. A description of the licensing action with a citation to this Federal Register notice

The licensing action is the early site permit proceeding for the proposed Victoria County Station Site, as described in the Notice of Hearing published at 75 Fed. Reg. 71467 (Nov. 23, 2010).

2. The name and address of the potential party and a description of the potential party's particularized interest that could be harmed

TSEP is a non-profit educational organization based in Victoria, Texas. The address of the organization is P.O. Box 2902, Victoria, Texas 77902.

TSEP's purpose is to identify and evaluate energy alternatives and their environmental, social and economic impacts, including but not limited to nuclear power, coal-fired power plants and other energy production facilities. TSEP has standing to represent the interests of its members in ensuring that the NRC's review process for the proposed Victoria early site permit is conducted in a manner that is open and fair and that protects TSEP's members from undue adverse impacts on their health and safety and the integrity of their environment in the event that a nuclear reactor is built on the site. Virginia Electric and Power Co. (North Anna Nuclear Power Station, Units 1 and 2), ALAB-522, 9 NRC 54, 56 (1979). As demonstrated by the attached

Declaration of Ralph R. Gilster, III (December, 1, 2010) (attached), TSEP has members who live and own property within a short distance (five miles) of the site of the proposed plant. These TSEP members are concerned about the safety and environmental risks posed by the proposed plant and have authorized TSEP to represent their interests.

Based on the above facts, there is a reasonable basis to believe that TSEP can establish standing to intervene in this matter.

3. The need for the information in order to meaningfully participate in this adjudicatory proceeding

Part 6 of Exelon's ESP application contains information that is claimed to be proprietary and withheld from public review in accordance with 10 C.F.R. § 2.390.¹ According to the Affidavit of Julie Kay Hardie of Seismic Exchange, Inc., the withheld materials consist of geophysical data and information that was licensed to Exelon and is subject to a confidentiality and non-disclosure obligation between those parties. At the current time, TSEP does not know the exact form or format of the withheld information, except that it is included on four DVDs identified as Enclosure 2 to Exelon's application.

The Exelon application references this information in part 2.5.1 of the Site Safety Analysis Report. Exelon relies on the withheld information for its analysis of the subsurface growth faults and surface deformation on and near the site.

TSEP is investigating the issues related to growth faults, and may submit contentions regarding the number, extent, location, depth and rate of slippage of the growth faults. In order to have a meaningful opportunity to evaluate the seismic suitability of the Victoria site for a new nuclear reactor, TSEP's counsel and experts need to be able to evaluate all technical information and analyses that have been prepared by Exelon regarding that issue. TSEP and its experts are prepared to enter into a non-disclosure agreement or affidavit and be bound by the terms of any protective order issued by the presiding officer.

Sincerely,

BLACKBURN CARTER, P.C.

By: _____

Charles Irvine

Attachment: Gilster Declaration

Cc: Associate General Counsel for Hearings, Enforcement and Administration
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001.
(by e-mail to OGCmailcenter@nrc.gov and Federal Express)

¹ The proprietary information is also referenced in Part 2 of the application.

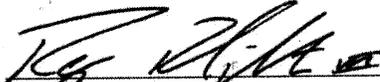
**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

**DECLARATION OF RALPH R. GILSTER, III IN SUPPORT OF
TEXANS FOR A SOUND ENERGY POLICY'S REQUEST
TO GAIN ACCESS TO SUNSI RECORDS**

Under penalty of perjury, I, Ralph R. Gilster, III, declare as follows:

1. I and several of my business entities are members in good standing of Texans for a Sound Energy Policy ("TSEP"). My address is One O'Connor Plaza, Suite 1100, Victoria, Texas 77901-6549.
2. I am the sole owner and manager of RRG3 SM Land LLC, a Texas Limited Liability Company. RRG3 SM Land LLC is the general partner of KOC Land, LP, the owner of a tract of approximately 38,625 acres of land situated in Refugio County, Texas, and known and referred to as the "Thos. O'Connor River Ranch". Portions of the said Thos. O'Connor River Ranch are located within 5 miles of the site of a proposed new nuclear plant for which Exelon Nuclear Texas Holdings, LLC ("Exelon") has submitted an Early Site Permit application ("ESP") to the U.S. Nuclear Regulatory Commission ("NRC" or "Commission"). The said Thos. O'Connor River Ranch is more definitively described as all of that tract of land described in a Deed dated effective December 31, 2007, and of record in Volume 210 at Page 454 of the Official Records of Refugio County, Texas. I spend much of my time on this property and maintain a residence there. It is a source of income for my family and me. Through my business operations on this ranch, we have several employees who both live and work on this land that is proximate to the proposed nuclear plant.
3. I am concerned that if the NRC grants Exelon's ESP, the construction and operation of the proposed nuclear power plant could adversely affect my health and safety, the integrity of the environment of this land that I deeply care for and the ability of my family and me to continue to use and enjoy this property. I am particularly concerned about the risk of accidental releases of radioactive material to the environment, and the potential harm to groundwater supplies and local surface waters as well as more general interference with our business operations.
4. In order to ensure that the licensing decision for the proposed Victoria nuclear power plant protects my interests in a safe and healthful environment, I have authorized TSEP to represent me in any licensing proceeding and/or related rulemaking proceeding that concerns the safety and environmental impacts of the proposed nuclear power plant in Victoria. I have also authorized TSEP to take any legal actions that are necessary to ensure that the licensing proceeding and the rulemaking proceeding are conducted fairly, efficiently, and in a manner that provides for the full consideration of all licensing issues that could affect my safety and the health of my environment.

I declare under penalty of perjury that the foregoing facts are true and correct and that any expressions of opinion are based on my best judgment.



RALPH R. GILSTER, III

12-1-10

Date