

February 22, 2011

Glenn A. Ellis, Esq.
Layser & Freiwald
1500 Walnut Street, 18th Floor
Philadelphia, Pennsylvania 19102

Re: *Sauer, et al., v. Exelon Corporation, et al.*, Case No. 1:10-cv-03258 (N. D. Ill.);
NRC File No. TR-11-03

Dear Counselor;

On February 15, 2011, you caused a subpoena *duces tecum* related to the above-captioned litigation to be served on the NRC's Region III Office in Lisle, Illinois. This subpoena is a "demand for information" and the NRC's response to such a demand is governed by the provisions of 10 C.F.R. § 9.200, *et seq.* The subpoena has been forwarded to the NRC's Office of the General Counsel in accordance with 10 C.F.R. § 9.201. This Office has assigned the processing number "TR-11-03" to your request; please refer to that number in any future correspondence regarding this matter.

Pursuant to 10 C.F.R. 9.202(b)(2), the General Counsel requires that you provide this Office with an affidavit describing (1) the information sought by the subpoena; (2) the issues in dispute in the litigation; (3) the relevance of the information sought to the issues in dispute; and (3) why that information is not available elsewhere. The NRC will hold your response in confidence; for example, we will treat it as "proprietary" under Exemption 4 of the Freedom of Information Act. Failure to comply with the requirements of the NRC's regulations is grounds for denial of the request. *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951). *See also Davis Enterprises v. EPA*, 877 F.2d 1181 (3d Cir. 1989), *cert. denied*, 493 U.S. 1070 (1990).

Please address your response to:
Stephen G. Burns, General Counsel,
U.S. Nuclear Regulatory Commission,
11555 Rockville Pike,
Rockville, Maryland 20852.
ATTENTION: Charles E. Mullins, Senior Attorney

You may fax an advance copy to me at 301-415-3200 or you may email a PDF of the affidavit to me at charles.mullins@nrc.gov. Please call me with any questions at 301-415-1618.

Respectfully,

/RA/
Charles E. Mullins
Senior Attorney
Office of the General Counsel

cc: Jared Heck, Esq.; Regional Counsel, NRC Region III