

EDO Principal Correspondence Control

FROM: DUE: 08/31/11

EDO CONTROL: G20110570  
DOC DT: 08/01/11  
FINAL REPLY:

Thomas Saporito  
Saprodani Associates

TO:

Chairman Jaczko

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO:

Leeds, NRR

DESC:

2.206 - Exelon/Limerick Nuclear Plant  
(EDATS: OEDO-2011-0539)

ROUTING:

Borchardt  
Weber  
Virgilio  
Ash  
Mamish  
OGC/GC  
Dean, RI  
Burns, OGC  
Mensah, NRR  
Scott, OGC  
Bowman, OEDO

DATE: 08/01/11

ASSIGNED TO:

CONTACT:

NRR

Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

Template: EDO-001

E-RIDS: EDO01

# EDATS

Electronic Document and Action Tracking System



**EDATS Number:** OEDO-2011-0539

**Source:** OEDO

## General Information

**Assigned To:** NRR

**OEDO Due Date:** 8/31/2011 11:00 PM

**Other Assignees:**

**SECY Due Date:** NONE

**Subject:** 2.206 - Exelon/Limerick Nuclear Plant

**Description:**

**CC Routing:** RegionI; OGC; Tanya.Mensah@nrc.gov; Catherine.Scott@nrc.gov

**ADAMS Accession Numbers - Incoming:** NONE

**Response/Package:** NONE

## Other Information

**Cross Reference Number:** G20110570

**Staff Initiated:** NO

**Related Task:**

**Recurring Item:** NO

**File Routing:** EDATS

**Agency Lesson Learned:** NO

**OEDO Monthly Report Item:** NO

## Process Information

**Action Type:** 2.206 Review

**Priority:** Medium

**Signature Level:** NRR

**Sensitivity:** None

**Urgency:** NO

**Approval Level:** No Approval Required

**OEDO Concurrence:** NO

**OCM Concurrence:** NO

**OCA Concurrence:** NO

**Special Instructions:**

## Document Information

**Originator Name:** Thomas Saporito

**Date of Incoming:** 8/1/2011

**Originating Organization:** Saproani Associates

**Document Received by OEDO Date:** 8/1/2011

**Addressee:** Chairman Jaczko

**Date Response Requested by Originator:** NONE

**Incoming Task Received:** E-mail

**From:** [saporito3@gmail.com](mailto:saporito3@gmail.com) [<mailto:saporito3@gmail.com>] **On Behalf Of** Thomas Saporito  
**Sent:** Monday, August 01, 2011 6:25 AM  
**To:** Jaczko, Gregory  
**Cc:** NRCExecSec Resource; DeMiranda, Oscar; Checkle, Melanie; Evans, Carolyn  
**Subject:** Exelon - 2.206 Enforcement Petition - Limerick Nuclear Plant

Dear Mr. Chairman:

Please ensure that the NRC Executive Director for Operations is provided a copy of the attached 2.206 Enforcement Petition filed against Exelon - Limerick Nuclear Plant for processing under MD 8.11 accordingly.

Kind regards,

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Thomas Saporito, Senior Consulting Associate  
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Saprodani-Associates - Advocate/GreenPeace USA

**UNITED STATES NUCLEAR REGULATORY COMMISSION  
BEFORE THE EXECUTIVE DIRECTOR FOR OPERATIONS**

*In the Matter of:*

**SAPRODANI ASSOCIATES, and  
THOMAS SAPORITO**

**DATE: 01 AUG 2011**

**Petitioner,**

**v.**

**EXELON GENERATION COMPANY, LLC,  
LIMERICK GENERATING STATION  
UNITS 1 and 2**

**Licensee.**

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**PETITION UNDER 10 C.F.R. §2.206 SEEKING ENFORCEMENT  
ACTION AGAINST EXELON GENERATION COMPANY, LLC,  
LIMERICK GENERATING STATION**

NOW COMES, Saprodani Associates, by and through and with, Thomas Saporito, Senior Consult (hereinafter "Petitioner") and submits a "*Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against Exelon Generation Company, LLC, Limerick Generating Station*" (Petition). For the reasons stated below, the U.S. Nuclear Regulatory Commission (NRC) should grant the Petition as a matter of law:

**NRC HAS JURISDICTION AND AUTHORITY TO GRANT PETITION**

The NRC is the government agency charged by the United States Congress to protect public health and safety and the environment related to operation of commercial nuclear reactors in the United States of America (USA). Congress charged the NRC with this grave responsibility in creation of the agency through passing the Energy Reorganization Act of 1974 (ERA). In the instant action, the above-captioned entities are collectively and singularly a "licensee" of the NRC and subject to NRC regulations and authority under 10 C.F.R. §50 and under other NRC regulations and authority in the operation of one or more nuclear reactors. Thus, through Congressional action in creation of the agency; and the fact that the named-actionable parties identified above by Petitioner are collectively and singularly a licensee of the NRC, the agency has jurisdiction and authority to grant the Petition.

## **STANDARD OF REVIEW**

### **A. Criteria for Reviewing Petitions Under 10 C.F.R. §2.206**

The staff will review a petition under the requirements of 10 C.F.R. §2.206 if the request meets all of the following criteria:

- The petition contains a request for enforcement-related action such as issuing an order modifying, suspending, or revoking a license, issuing a notice of violation, with or without a proposed civil penalty, etc.
- The facts that constitute the basis for taking the particular action are specified. The petitioner must provide some element of support beyond the bare assertion. The supporting facts must be credible and sufficient to warrant further inquiry.
- There is no NRC proceeding available in which the petitioner is or could be a party and through which petitioner's concerns could be addressed. If there is a proceeding available, for example, if a petitioner raises an issue that he or she has raised or could raise in an ongoing licensing proceeding, the staff will inform the petitioner of the ongoing proceeding and will not treat the request under 10 C.F.R. §2.206.

### **B. Criteria for Rejecting Petitions Under 10 C.F.R. §2.206**

- The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns. The request cannot be simply a general statement of opposition to nuclear power or a general assertion without supporting facts (e.g., the quality assurance at the facility is inadequate). These assertions will be treated as routine correspondence or as allegations that will be referred for appropriate action in accordance with MD 8.8, "Management of Allegations".
- The petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. This would include requests to reconsider or reopen a previous enforcement action (including a decision not to initiate an enforcement action) or a director's decision. These requests will not be treated as a 2.206 petition unless they present significant new information.
- The request is to deny a license application or amendment. This type of request should initially be addressed in the context of the relevant licensing action, not under 10 C.F.R. 2.206.
- The request addresses deficiencies within existing NRC rules. This type of request should

be addressed as a petition for rulemaking.

*See, Volume 8, Licensee Oversight Programs, Review Process for 10 C.F.R. Petitions, Handbook 8.11 Part III.*

**REQUEST FOR ENFORCEMENT-RELATED ACTION TO MODIFY,  
SUSPEND, OR REVOKE A LICENSE AND ISSUE A NOTICE OF  
VIOLATION WITH A PROPOSED CIVIL PENALTY**

**A. Request for Enforcement-Related Action**

Petitioner respectfully requests that the NRC take escalated enforcement action against the above-captioned licensee(s) and deny the licensee(s) application for renewal of Limerick Generating Station, Units 1 and 2 - Operating License Nos. NPF-39 and NPF-85 for an additional 20-Year Period.

**B. Facts That Constitute the Basis for Taking the Requested Enforcement-Related Action Requested by Petitioner**

On July 26, 2011, the NRC noticed in the Federal Register/Vol. 76, No. 143, that the above-captioned licensee(s) filed an application with the NRC for Renewal of Limerick Generating Station, Units 1 and 2 Facility Operating License Nos. NPF-39 and NPF-85 for an Additional 20-Year Period. The licensee(s) filed their license renewal application with the NRC under Section 103 of the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations part 54 (10 CFR part 54), to renew the operating licenses for the Limerick Generating Station (LGS), Units 1 and 2. Renewal of the licenses would authorize the licensee to operate each facility for an additional 20-year period beyond the current operating license.

Petitioner contends here that the LGS Units 1 and 2 employ nuclear reactor vessels which have been in operation for a period of years sufficient to cause the metal in the nuclear reactor vessels to become dangerously brittle and subject to cracking or shattering from continued operations and stresses during an extended 20-year period beyond the original safety design basis for which the NRC granted the primary operating licenses identified above. Petitioner contends here that the licensee has not and cannot provide the NRC with sufficient and reliable test data to show that the material condition of the nuclear reactor vessels in question has not degraded and become dangerously brittle; or that continued operations of the nuclear reactors for 20-years beyond the initial 40-year license period will not cause the reactor vessels to crack or shatter and result in a Loss-of-Coolant Accident (LOCA) and cause harm to the health and safety of the public and to the environment at large.

**C. There Is No NRC Proceeding Available in Which the Petitioner is or Could be a Party and Through Which Petitioner's Concerns Could be Addressed**

Petitioner avers here that there is no NRC proceeding available in which the Petitioner is

or could be a party and through which Petitioner's concerns could be addressed.

### **CONCLUSION**

FOR ALL THE ABOVE STATED REASONS, and because Petitioner has amply satisfied all the requirements under 10 C.F.R. §2.206 for consideration of the Petition by the NRC Petition Review Board (PRB), the NRC should grant Petitioner's requests made in the instant Petition as a matter of law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thomas Saporito', is written over a horizontal line.

Thomas Saporito, Senior Consultant  
Saprodani Associates  
Post Office Box 8413  
Jupiter, Florida 33468-8413  
Voice: (561) 972-8363

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 1st day of August 2011, a copy of foregoing document was provided to those identified below by means shown:

Hon. William Borchardt  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
{Sent via U.S. Mail and electronic mail}

Hon. Gregory B. Jaczko, Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555  
{Sent via electronic mail}

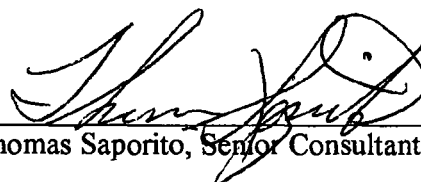
Carolyn Evans, Dir. of Enforcement  
U.S. Nuclear Regulatory Commission  
Region II Headquarters  
Atlanta, Georgia 30303  
{Sent via electronic mail}

Local and National Media Sources

Melanie Checkle, Allegations Coordinator  
U.S. Nuclear Regulatory Commission  
Region II Headquarters  
Atlanta, Georgia 30303  
{Sent via electronic mail}

Oscar DeMiranda  
Senior Allegations Coordinator  
U.S. Nuclear Regulatory Commission  
Region II Headquarters  
Atlanta, Georgia 30303  
{Sent via electronic mail}

By:

  
Thomas Saporito, Senior Consultant