

RS-11-127

10 CFR 50.80

August 3, 2011

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

Braidwood Station, Units 1 and 2
Facility Operating License Nos. NPF-72 and NPF-77
NRC Docket Nos. 50-456 and 50-457

Byron Station, Units 1 and 2
Facility Operating License Nos. NPF-37 and NPF-66
NRC Docket Nos. 50-454 and 50-455

Clinton Power Station
Facility Operating License No. NPF-62
NRC Docket No. 50-461

Dresden Nuclear Power Station, Units 1, 2 and 3
Facility Operating License No. DPR-2
Renewed Facility Operating License Nos. DPR-19 and DPR-25
NRC Docket Nos. 50-10, 50-237 and 50-249

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

Limerick Generating Station, Units 1 and 2
Facility Operating License Nos. NPF-39 and NPF-85
NRC Docket Nos. 50-352 and 50-353

Oyster Creek Nuclear Generating Station
Renewed Facility Operating License No. DPR-16
NRC Docket No. 50-219

Peach Bottom Atomic Power Station, Units 1, 2 and 3
Facility Operating License No. DPR-12
Renewed Facility Operating License Nos. DPR-44 and DPR-56
NRC Docket Nos. 50-171, 50-277 and 50-278

Quad Cities Nuclear Power Station, Units 1 and 2
Renewed Facility Operating License Nos. DPR-29 and DPR-30
NRC Docket Nos. 50-254 and 50-265

Salem Generating Station, Units 1 and 2
Facility Operating License Nos. DPR-70 and DPR-75
NRC Docket Nos. 50-272 and 50-311

Three Mile Island Nuclear Station, Unit 1
Renewed Facility Operating License No. DPR-50
NRC Docket No. 50-289

Subject: Response to Request for Additional Information – Proposed Merger
Between Constellation Energy Group, Inc. and Exelon Corporation

Reference: (1) USNRC letter to Constellation Energy Nuclear Group, LLC,
“Request for Additional Information – Proposed Merger Between
Constellation Energy Group, Inc. and Exelon Corporation,” dated
July 14, 2011

(2) Exelon Generation Company, LLC letter to USNRC, “Request for
Threshold Determination Under 10 CFR 50.80,” dated May 18, 2011

(3) Exelon Generation Company, LLC and Constellation Energy
Nuclear Group, LLC letter to USNRC, “Application for Approval of
Indirect Transfer of Control of Licenses,” dated May 12, 2011

The purpose of this letter is to provide the Exelon Corporation (Exelon) response to the NRC Request for Additional Information (RAI) Question 2.h, contained in Reference 1 regarding the Exelon Board of Directors. Question 2.h is related to the Exelon request for threshold determination previously submitted in Reference 2. The Exelon request for threshold determination is regarding the application for indirect transfer of control of licenses submitted by Exelon and Constellation Energy Nuclear Group, LLC (CENG) in Reference 3. The requested information is provided in Attachment 1. It is noted that the additional NRC RAIs contained in Reference 1 are being responded to separately by CENG.

There are no regulatory commitments in this letter.

If any additional information is needed, please contact David J. Distel at (610) 765-5517.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 3rd day of August, 2011.



J. Bradley Fewell
Vice President and Deputy General Counsel
Exelon Generation Company, LLC

Attachment:

1. Response to the NRC Request for Additional Information – Item 2.h

cc: Regional Administrator - NRC Region I
Regional Administrator - NRC Region III
NRC Senior Resident Inspector - Braidwood Station, Units 1 and 2
NRC Senior Resident Inspector - Byron Station, Units 1 and 2
NRC Senior Resident Inspector - Clinton Power Station
NRC Senior Resident Inspector - Dresden Nuclear Power Station, Units 1, 2 and 3
NRC Senior Resident Inspector - LaSalle County Station, Units 1 and 2
NRC Senior Resident Inspector - Limerick Generating Station, Units 1 and 2
NRC Senior Resident Inspector - Oyster Creek Nuclear Generating Station
NRC Senior Resident Inspector - Peach Bottom Atomic Power Station, Units 1, 2 and 3
NRC Senior Resident Inspector - Quad Cities Nuclear Power Station, Units 1 and 2
NRC Senior Resident Inspector - Salem Generating Station, Units 1 and 2
NRC Senior Resident Inspector - Three Mile Island Nuclear Station, Unit 1
E. A. Brown, NRC Senior Project Manager
D. V. Pickett, NRC Senior Project Manager

ATTACHMENT 1

RESPONSE TO THE NRC REQUEST FOR ADDITIONAL INFORMATION

Requested Information Item 2.h: Foreign Ownership, Control, or Domination

Describe the functions of the compensation committee, corporate governance committee, audit committee, and risk oversight committee of Exelon's Board of Directors, and describe how they specifically relate to NRC activities (e.g., decommissioning funding assurance). Also, describe the roles and responsibilities of the directors on the aforementioned committees and state how Exelon will negate potential foreign influence and control over the committees as they pertain to NRC activities.

Response:

The Exelon Board of Directors has established six standing committees to assist the board in carrying out its duties. The committees and their principal responsibilities are described below. The charter of each committee of the Exelon board is attached hereto and is also publicly available on the Exelon website.

Exelon's Generation Oversight Committee is responsible for board level oversight of all nuclear generation matters, including Nuclear Regulatory Commission regulatory performance and compliance with NRC requirements. The Committee's other principal duties include, among other matters: (i) advising and assisting the full board in fulfilling its responsibilities to oversee the safe and reliable operation of all generating facilities owned or operated by Exelon or its subsidiaries, including those in which Exelon has significant equity or operational interests; (ii) reviewing major investments and changes in strategy regarding the generating facilities; (iii) reviewing the budget and business plans of Exelon Generation Company and monitoring its operating and financial performance; (iv) overseeing the establishment of and compliance with policies and procedures to manage and mitigate risks associated with the security and integrity of Exelon Generation Company's assets; and (v) reviewing environmental, health and safety issues related to Exelon Generation Company.

Exelon's Audit Committee's principal duties include, among other matters: (i) reviewing financial reporting, accounting practices and internal control functions; (ii) with the assistance of the Risk Oversight Committee, reviewing and making recommendations to the full board regarding risk management policy and legal and regulatory compliance; (iii) recommending Exelon's independent accountant; (iv) approving the scope of the annual audits by the independent accountant and internal auditors; and (v) reviewing and making recommendations to the full board regarding officers' and directors' expenses and compliance with Exelon's Code of Business Conduct.

The Compensation Committee's principal duties include, among other matters: ensuring that executive compensation levels and targets are aligned with, and designed to achieve, Exelon's strategic and operating objectives; and reviewing recommendations

from management and outside consultants and approving or recommending approval of matters of executive compensation for officers of Exelon and its subsidiaries, including base salary, incentive awards, equity grants, perquisites, and other forms of compensation.

The Corporate Governance Committee's principal duties include, among other matters: (i) reviewing and making recommendations on corporate, board and committee structure, organization, committee membership, functions, compensation and effectiveness; (ii) monitoring corporate governance trends and making recommendations to the board regarding Exelon's Corporate Governance Principles; (iii) identifying potential director candidates and coordinating the nominating process for directors; (iv) coordinating the board's role in establishing performance criteria for the CEO and evaluating the CEO's performance; (v) monitoring succession planning and executive leadership development; (vi) overseeing Exelon's strategies and efforts to protect and improve the environment, including climate change, sustainability and the Exelon 2020 plan; and (vii) overseeing Exelon's efforts to promote diversity among its directors, officers, employees and contractors.

The Energy Delivery Oversight Committee's principal duties include, among other matters: (i) overseeing the operating utilities' (ComEd and PECO) performance trends, compared to benchmarks, focusing on issues having cross-utility impact or opportunities for sharing best practices and lessons learned; (ii) reviewing issues having significant impact on utility capital budgets and resource adequacy to meet utility service obligations; (iii) overseeing the establishment of and compliance with policies and procedures for the management and mitigation of risks associated with the security and integrity of the transmission and distribution assets of ComEd, PECO and Exelon Transmission Company; (iv) reviewing significant legislative, regulatory and investment and recovery strategies, focusing on those with potential multi-state or multi-utility impact; (v) reviewing significant labor and human relations policies or issues related to the operating utilities, focusing on those with potential cross-utility impact and sharing of best practices and lessons learned; and (vi) reviewing significant environmental, health and safety policies or practices related to the operating utilities.

The Risk Oversight Committee's principal duties include, among other matters: (i) overseeing Exelon's risk management functions; (ii) reporting to the Audit Committee and the full board regarding corporate risk management policy (including financial risks, legal and regulatory risks), power marketing, power trading risk management strategy, nuclear fuels procurement and performance, and the hedged condition of the generation portfolio; (iii) reviewing and approving risk policies relating to power marketing, hedging and the use of derivatives; and (iv) overseeing and reviewing the performance and management of assets in Exelon's pension and nuclear decommissioning trust funds.

Exelon's Board of Directors is comprised of 15 directors, all of whom are U.S. citizens. Immediately following the proposed merger, the Exelon Board of Directors will be comprised of 18 directors, four of whom will be drawn from the Constellation Board of Directors and 14 of whom will be drawn from the Exelon Board of Directors. Two of those 14 legacy Exelon directors will retire near the end of 2012, leaving a board of 16 directors, four of whom will be legacy Constellation directors and 12 of whom will be legacy Exelon directors. The Constellation board has one director who is a Canadian citizen who is expected to be appointed to the Exelon board, and may also be appointed to one or more of the Audit, Compensation, Corporate Governance and Risk Oversight Committees. Consequently, as a result of the merger, the Exelon board will have, at

most, only one director who is not a U.S. citizen. All Exelon directors will have duties to Exelon shareholders as a whole rather than any particular group of shareholders. This negates the possibility of any foreign control or influence over Exelon that might raise any implications for nuclear safety or security inconsistent with the prohibition against foreign ownership, control and domination in 10 CFR 50.38

Exelon's Generation Oversight Committee consists of four Exelon directors who are U.S. citizens. Although it is possible that a legacy Constellation director could be appointed to serve on Exelon's Generation Oversight Committee after completion of the merger, Exelon expects that the person so appointed will be a U.S. citizen.

As described in the Exelon/CENG letter to the NRC, "Application for Approval of Indirect Transfer of Control of Licenses," dated May 12, 2011, EDF Inc.'s existing ownership interest in CENG remains unchanged as a result of the proposed merger transaction between Exelon and CEG. The CENG Operating Agreement, provided as Attachment 7 in Exelon/CENG letter to the NRC, "Application for Approval of Indirect Transfer of Control of Licenses," dated May 12, 2011, prevents non-U.S. directors from having the power to control or direct matters on numerous items, including any matter pertaining to nuclear safety, security, and reliability. CENG has implemented negation measures to ensure that final decision making authority over matters of nuclear safety, security, and reliability remains in the hands of U.S. citizens. These measures ensure continued U.S. control over all matters required to be under U.S. control by the Atomic Energy Act (AEA) and 10 CFR 50.38. The NRC reviewed these measures during its review of the CENG/EDF license transfer in 2009 and determined that they were adequate. These negation measures for CENG remain in place and are unaffected by the proposed Exelon/CEG merger.

As described in Exelon letter to the NRC, dated June 24, 2011 (RS-11-105), upon completion of the merger the Exelon Board of Directors will remain controlled by U.S. citizen directors. Therefore, this negates the possibility of any foreign control or influence over Exelon that might raise any implications for nuclear safety or security inconsistent with the prohibition against foreign ownership, control and domination in 10 CFR 50.38, and the AEA.