

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

William J. Froehlich, Chairman
Dr. Michael F. Kennedy
Dr. William E. Kastenberg

In the Matter of:

EXELON GENERATION COMPANY LLC

(Limerick Generating Station, Units 1 & 2)

Docket No. 50-352-LR, 50-353-LR

ASLBP No. 12-916-04-LR-BD01

May 3, 2012

NOTICE OF HEARING

This proceeding concerns the application filed by Exelon Generation Company LLC (Exelon) to extend its operating licenses for the Limerick Generating Station, Units 1 and 2 (Limerick) for an additional twenty years (i.e., until October 26, 2044 for Unit 1, and June 22, 2049 for Unit 2) pursuant to Part 54 of Title 10 of the Code of Federal Regulations.¹ In response to an August 24, 2011 notice of opportunity for hearing published in the Federal Register,² the Natural Resources Defense Council (NRDC) filed a petition to intervene and request for hearing on the

¹ License Renewal Application; Limerick Generating Station (June 2011) (ADAMS Accession No. ML11179A101) [hereinafter Application]. The application also seeks renewal of the associated source material, special nuclear material, and by-product material licenses under 10 C.F.R. Parts 30, 40, and 70.

² Notice of Acceptance for Docketing of the Application and Notice of Opportunity for Hearing Regarding Renewal of Facility Operating License Nos. NPF-39 and NPF-85 for an Additional 20-Year Period; Exelon Generation Co., LLC, Limerick Generating Station, 76 Fed. Reg. 52,992, 52,992 (Aug. 24, 2011).

Limerick application, setting forth four contentions.³ On December 15, 2011, this Board was established to preside over the instant proceeding and on February 21, 2012 the Board held an oral argument in Norristown, Pennsylvania on standing and contention admissibility.⁴

In an April 4, 2012 memorandum and order,⁵ the Board ruled that NRDC had standing to intervene in this proceeding. The Board admitted a narrowed version of Contention 1-E, challenging Exelon's consideration of new and significant information regarding severe accident mitigation alternatives (SAMAs). Contention 1-E, as admitted, reads as follows:

Applicant's Environmental Report (§ 5.3) erroneously concludes that new information related to its severe accident mitigation design alternatives ("SAMDA") analysis is not significant, in violation of 10 C.F.R. § 51.53(c)(3)(iv), and thus the ER fails to present a legally sufficient analysis of severe accident mitigation alternatives in that:

1. Exelon has omitted from its ER a required analysis of new and significant information regarding potential new severe accident mitigation alternatives previously considered for other BWR Mark II Containment reactors.
2. Exelon's reliance on data from TMI in its analysis of new and significant information regarding economic cost risk constitutes an inadequate analysis of new and significant information.⁶

The Board ruled that the procedures of Subpart L shall be used for the admitted contention.⁷

³ Natural Resources Defense Council Petition to Intervene and Notice of Intention to Participate (Nov. 22, 2011).

⁴ See Tr. 1-269.

⁵ LBP-12-08, 75 NRC ___ (slip op.) (Apr. 4, 2012).

⁶ Id. at 40.

⁷ Id.

On April 16, 2012, pursuant to 10 C.F.R. § 2.311, Exelon and the NRC Staff filed Notices of Appeal of the Board's April 4, 2012 Memorandum and Order.⁸ The filing of an appeal does not stay or delay the effect of a licensing board order on contention admissibility. "[I]nterlocutory appeals or petitions to the Commission are not devices for delaying or halting licensing board proceedings."⁹

In light of the foregoing, please take notice that a hearing will be conducted in this proceeding. The Board may conduct an oral argument,¹⁰ hold pre-hearing conferences,¹¹ and conduct evidentiary hearings.¹² Unless otherwise ordered by the Commission, the public is invited to attend any oral argument, prehearing conference, or evidentiary hearing.¹³ Notices of these sessions will be published in the Federal Register and/or made available to the public at the NRC Public Document Room, located at One White Flint, 11555 Rockville Pike (first floor), Rockville, MD, and through the NRC website, www.nrc.gov.

The Administrative Dispute Resolution Act of 1996¹⁴ encourages the use of alternative dispute resolution by Federal agencies. The parties are encouraged to explore voluntary processes, including settlement talks with or without a neutral, to resolve the issues in this case. Upon request, a settlement judge from the Atomic Safety and Licensing Board Panel (ASLBP) could be appointed.¹⁵

⁸ See Exelon's Notice of Appeal of LBP-12-08 (Apr. 16, 2012); NRC Staff's Notice of Appeal of LBP-12-08 (Apr. 16, 2012).

⁹ Sequoyah Fuels Corp. (Gore, Oklahoma Site), CLI-94-9, 40 NRC 1, 6 (1994).

¹⁰ See 10 C.F.R. § 2.331.

¹¹ See id. § 2.329.

¹² See id. §§ 2.327-2.328, 2.1206-2.1208.

¹³ Id. § 2.328.

¹⁴ 5 U.S.C. §§ 571-584.

¹⁵ 10 C.F.R. § 2.338(b).

Additionally, as provided in 10 C.F.R. § 2.315(a), any person not a party to the proceeding may submit a written limited appearance statement setting forth his or her position on the issues in this proceeding. These statements do not constitute evidence but may assist the Board and/or parties in defining the issues being considered. Persons wishing to submit a written limited appearance statement should send it to the Office of the Secretary by one of the methods prescribed below:

Mail to: Office of the Secretary
Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Fax to: (301) 415-1101 (verification (301) 415-1966)

Email to: hearing.docket@nrc.gov

In addition, a copy of the limited appearance statement should be sent to the Licensing Board Chairman using the same method at the address below:

Mail to: Administrative Judge William J. Froehlich
Atomic Safety and Licensing Board Panel
Mail Stop T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Fax to: (301) 415-5599 (verification (301) 415-7550)

Email to: william.froehlich@nrc.gov

At a later date, the Board may entertain oral limited appearance statements at a location or locations in the vicinity of the Limerick facility. Notice of any oral limited appearance sessions will be published in the Federal Register and/or made available to the public at the NRC Public Document Room and on the NRC website, www.nrc.gov.

Documents relating to this proceeding are available for public inspection at the NRC's Public Document Room or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC website at www.nrc.gov/reading-rm/adams.html. Persons who do not have access to ADAMS or who encounter problems in

accessing the documents located in ADAMS may contact the NRC Public Document Room reference staff by telephone at (800) 397-4209 or (301) 415-4737, or by email to pdr@nrc.gov.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
May 3, 2012

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Exelon Generation Company, LLC) Docket Nos. 50-352-LR and 50-353-LR
(Limerick Generating Station, Units 1 and 2))
) ASLBP No. 12-916-04-LR-BD01
(License Renewal))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing NOTICE OF HEARING have been served upon the following persons by Electronic Information Exchange.

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board
Mail Stop T-3F23
Washington, DC 20555-0001

William J. Froehlich, Chair
Administrative Judge
E-mail: william.froehlich@nrc.gov

Michael F. Kennedy
Administrative Judge
E-mail: michael.kennedy@nrc.gov

William E. Kastenbergl
Administrative Judge
E-mail: William.kastenbergl@nrc.gov

Matthew Flyntz
Law Clerk
E-mail: matthew.flyntz@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Mail Stop O-16C1
Washington, DC 20555-0001
Hearing Docket: hearingdocket@nrc.gov

Limerick Generating Station, Units 1 and 2, Docket Nos. 50-352-LR and 50-353-LR
NOTICE OF HEARING

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop O-16C1
Washington, DC 20555-0001
OCA Mail Center: ocaamail@nrc.gov

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D21
Washington, DC 20555-0001
Catherine Kanatas, Esq.
Maxwell Smith, Esq.
Mary Spencer, Esq.
Edward Williamson, Esq.
Lauren Woodall, Esq.
Brian Newell, Paralegal
catherine.kanatas@nrc.gov
maxwell.smith@nrc.gov
mary.spencer@nrc.gov
edward.williamson@nrc.gov
lauren.woodall@nrc.gov
brian.newell@nrc.gov

OGC Mail Center: OGCMailCenter@nrc.gov

Exelon Generation Company, LLC
Exelon Business Services Company
200 Exelon Way, Suite 305
Kennett Square, PA 19348
Donald Ferraro, Asst. General Counsel
donald.ferraro@exeloncorp.com

Exelon Generation Company, LLC
4300 Warrenville Road
Warrenville, IL 60555
J. Bradley Fewell, Dep. General Counsel
bradley.fewell@exeloncorp.com

Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004
Alex Polonsky, Esq.
Kathryn Sutton, Esq.
Anna Jones, Esq.
Laura Swett, Esq.
Edwin Villarico, Sr. Paralegal
Mary Freeze, Legal Secretary
apolonsky@morganlewis.com
ksutton@morganlewis.com
anna.jones@morganlewis.com
lsweet@morganlewis.com
evillarico@morganlewis.com
mfreeze@morganlewis.com

Morgan, Lewis & Bockius, LLP
1701 Market Street
Philadelphia, PA 19103-2921
Brooke Leach, Esq.
bleach@morganlewis.com

Limerick Generating Station, Units 1 and 2, Docket Nos. 50-352-LR and 50-353-LR
NOTICE OF HEARING

Natural Resources Defense Council (NRDC)
1152 – 15th Street, N.W., #300
Washington, DC 20005
Geoffrey H. Fettus, Sr. Project Attorney
gfettus@nrdc.org

National Legal Scholars Law Firm, P.C.
241 Poverty Lane, Unit 1
Lebanon, New Hampshire 03766
Anthony Roisman, Managing Partner
aroisman@nationallegalscholars.com

[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 3rd day of May 2012