

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

August 8, 2012

ORDER

(Suspending Procedural Date Related to Proposed Waste Confidence Contention)

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

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).

Resources Defense Council (NRDC) filed a petition to intervene and request for hearing on the Limerick application, setting forth four contentions.³

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

On July 9, 2012 NRDC filed a Motion for Leave to File a New Contention Concerning Temporary Storage and Ultimate Disposal of Nuclear Waste at Limerick.⁶ The Motion raised a new contention largely based on the June 8, 2012, decision of the United States Court of Appeals for the District of Columbia Circuit in State of New York v. NRC, 681 F.3d 471 (D.C. Cir. 2012). On August 2, 2012 the NRC Staff and Exelon filed Answers to the motion.⁷ NRDC's reply to these answers is currently due August 16, 2012.⁸

On August 7, 2012, however, the Commission issued CLI-12-16, which addressed many of the issues concerning temporary storage and ultimate disposal of nuclear waste raised by NRDC

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

⁴ LBP-12-08, 75 NRC __, __ (slip op. at 7) (Apr. 4, 2012).

⁵ See id. at 40.

⁶ Motion for Leave to File a New Contention Concerning Temporary Storage and Ultimate Disposal of Nuclear Waste (July 9, 2012) (Agencywide Documents Access and Management System ("ADAMS") Accession No. ML12191A408) ("Motion") and Waste Confidence Contention (July 9, 2012) (ADAMS Accession No. ML12191A408) ("Contention").

⁷ See NRC Staff's Response to NRDC's Motion for Leave to File a New Contention Concerning Temporary Storage and Ultimate Disposal of Nuclear Waste at Limerick and NRDC's Waste Confidence Contention (Aug. 2, 2012); Exelon's Answer Opposing NRDC's New Waste Confidence Contention (Aug. 2, 2012).

⁸ See Initial Scheduling Order (May 7, 2012) at 7 (unpublished) (granting Intervenors 14 days, rather than the standard seven days, to file a reply to answers to a motion to admit a new contention).

in this docket.⁹ The Commission, citing this proceeding¹⁰ and numerous other proceedings where similar contentions were filed, exercised its inherent supervisory authority over adjudications, and directed that these contentions—and any related contentions that may be filed in the near term—be held in abeyance pending further Commission order.¹¹

Given the Commission's direction in CLI-12-16 that the proceedings before the boards be held in abeyance, the August 16, 2012 deadline for any NRDC reply is suspended.¹²

It is so ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD

/RA/

William J. Froehlich, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
August 8, 2012

⁹ See Calvert Cliffs Nuclear Project, LLC (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-12-16, 76 NRC __ (slip op.) (Aug. 7, 2012).

¹⁰ See id. at 5 n.10.

¹¹ Id. at 6.

¹² We note, however, that should the Commission send the waste confidence issue to the Board for decision, NRDC will be given an opportunity to file its reply. See id. at 5 (“To the extent that the NRC takes action with respect to waste confidence on a case-by-case basis, litigants can challenge such site-specific agency actions in our adjudicatory process.”).

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 **ORDER (Suspending Procedural Date Related to Proposed Waste Confidence Contentions)** have been served upon the following persons by Electronic Information Exchange and by electronic mail as indicated by an asterisk*.

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Limerick Generating Station, Units 1 and 2, Docket Nos. 50-362-LR and 50-363-LR
**ORDER (Suspending Procedural Date Related to Proposed Waste Confidence
Contention)**

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[Original signed by Nancy Greathead]

Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 8th day of August, 2012