

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Michael M. Gibson, Chairman
Dr. Anthony J. Baratta
Dr. Mark O. Barnett

In the Matter of

EXELON NUCLEAR TEXAS HOLDINGS, LLC

(Victoria County Station Site)

Docket Nos. 52-042

ASLBP No. 11-908-01-ESP-BD01

September 5, 2012

ORDER

(Granting Unopposed Motion to Withdraw Application
Without Prejudice and Terminating the Proceeding)

On August 29, 2012, Exelon Nuclear Texas Holdings, LLC (Exelon) moved, pursuant to 10 C.F.R. §§ 2.107(a) and 2.323(a), to withdraw its pending early site permit (ESP) application for its proposed Victoria County Station Site.¹ Exelon requested that dismissal be granted without prejudice and without the imposition of additional terms.² Neither the sole intervenor, Texans for a Sound Energy Policy (TSEP), nor the NRC Staff opposes the motion.³

Our regulations state that “[w]ithdrawal of an application after the issuance of a notice of hearing⁴ shall be on such terms as the presiding officer may prescribe.”⁵ Because the motion is

¹ Unopposed Motion to Withdraw Application Without Prejudice (Aug. 29, 2012).

² Id. at 1.

³ Id. at 2.

⁴ TSEP filed a petition to intervene in response to the Commission’s November 23, 2010 Notice of Hearing and Opportunity to Petition for Leave to Intervene. 75 Fed. Reg. 71,467 (Nov. 23, 2010).

⁵ 10 C.F.R. § 2.107(a).

unopposed, and because nothing in the record before us suggests that any party, or the public interest in general, has sustained any harm as a consequence of the pendency of, or Exelon's prosecution of, the Victoria Station ESP application,⁶ we GRANT Exelon's unopposed motion to withdraw its application without prejudice and impose no additional terms. This proceeding is hereby terminated.

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson, Chairman
ADMINISTRATIVE JUDGE

/RA/

Dr. Anthony J. Baratta
ADMINISTRATIVE JUDGE

/RA/

Dr. Mark O. Barnett
ADMINISTRATIVE JUDGE

Rockville, Maryland
September 5, 2012

⁶ See Philadelphia Elec. Co. (Fulton Generating Station, Units 1 and 2), ALAB-657, 14 NRC 967, 978-79 (1981); see also Puerto Rico Elec. Power Auth. (North Coast Nuclear Plant, Unit 1), ALAB-662, 14 NRC 1125, 1133 (1981).

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
EXELON NUCLEAR TEXAS HOLDINGS, LLC) Docket No. 52-042-ESP
(Victoria County Station))
)
(Early Site Permit))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Granting Unopposed Motion to Withdraw Application Without Prejudice and Terminating the Proceeding) (LBP-12-20)** have been served upon the following persons by Electronic Information Exchange.

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

Michael M. Gibson, Chair
Administrative Judge
E-mail: michael.gibson@nrc.gov

Anthony J. Baratta
Administrative Judge
E-mail: anthony.baratta@nrc.gov

Mark O. Barnett
Administrative Judge
E-mail: mark.barnett@nrc.gov

Anne Siarnacki, Law Clerk
E-mail: anne.siarnacki@nrc.gov

U.S. Nuclear Regulatory Commission
Office of Commission Appellate Adjudication
Mail Stop O-7H4M
Washington, DC 20555-0001
E-mail: ocaamail@nrc.gov

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

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15D-21
Washington, DC 20555-0001
Sara Kirkwood, Esq.
Patrick A. Moulding, Esq.
Laura Goldin, Esq.
Anthony Wilson, Esq.
Sarah W. Price, Esq.
Kevin C. Roach, Esq.
Michael Spencer, Esq.
Jody Martin, Esq.
Karin A. Francis, Paralegal
E-mail: sara.kirkwood@nrc.gov;
patrick.moulding@nrc.gov,
laura.goldin@nrc.gov
anthony.wilson@nrc.gov
sarah.price@nrc.gov
kevin.roach@nrc.gov
karin.francis@nrc.gov
michael.spencer@nrc.gov
jody.martin@nrc.gov

OGC Mail Center : OGCMailCenter@nrc.gov

Docket No. 52-042-ESP

ORDER (Granting Unopposed Motion to Withdraw Application Without Prejudice and Terminating the Proceeding) (LBP-12-20)

Exelon Generation Co., LLC
4300 Winfield Road
Warrenville, IL 60555
J. Bradley Fewell, Esq.
E-mail: bradley.fewell@exeloncorp.com

Counsel for Texans for a Sound Energy
Policy (TSEP)
Blackburn Carter
4709 Austin Street
Houston, Texas 77004
James B. Blackburn, Jr., Esq.
Charles Irvine, Esq.
E-mail: jbblaw@blackburncarter.com
E-mail: zamerson@blackburncarter.com

Counsel for the Applicant
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004
Steven P. Frantz, Esq.
Stephen Burdick, Esq.
Jonathan M. Rund, Esq.
Joseph Fray, Esq.
Lance Escher, Esq.
Mary Freeze
Audrea Salters
E-mail: sfrantz@morganlewis.com
sburdick@morganlewis.com
jrund@morganlewis.com;
jfray@morganlewis.com;
mfreeze@morganlewis.com
lescher@morganlewis.com
asalters@morganlewis.com

[Original signed by Nancy Greathead]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 5th day of September 2012