

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219; NRC-2013-0288]

Exelon Generation Company, LLC

License Exemption Request for Oyster Creek Nuclear Generating Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to an October 14, 2013, request from Exelon Generation Company (the licensee) for a one-time exemption from the requirement to participate in the biennial Emergency Preparedness (EP) exercise. The licensee requested to delay conduct of the exercise from October 8, 2013, to March 18, 2014.

ADDRESSES: Please refer to Docket ID **NRC-2013-0288** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0288**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John G. Lamb, Office of Nuclear Reactor Regulation, Division of Operating Reactor Licensing; telephone: 301-415-3100, e-mail: John.Lamb@nrc.gov; U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.

SUPPLEMENTARY INFORMATION: The following sections include the text of the exemption in its entirety as issued to Exelon Generation Company, LLC.

I. Background.

The Exelon Generation Company, LLC (the licensee) is the holder of Facility Operating License No. DPR-16, which authorizes operation of the Oyster Creek Nuclear Generating Station (OCNGS). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect. The facility consists of a

boiling-water reactor located in Ocean County, New Jersey.

II. Request/Action.

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c requires that “[o]ffsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the radiological response plan.” By letter dated October 14, 2013, and supplemented on December 19, 2013 (ADAMS Accession Nos. ML13288A177 and ML13357A662, respectively), the licensee requested a one-time exemption from this requirement that would allow the licensee to delay conduct of a biennial emergency preparedness (EP) exercise from October 8, 2013, to March 18, 2014. The licensee’s request states that the Federal government shutdown various government agencies on October 1, 2013, due to a lapse in funding appropriations. The Federal government shutdown affected the Federal Emergency Management Agency’s (FEMA’s) and the NRC’s capabilities to participate in the OCNGS EP exercise scheduled on October 8, 2013. By letter dated October 3, 2013, FEMA notified the New Jersey Deputy Superintendent Homeland Security, State Police Division Headquarters, that FEMA would not be able to evaluate the OCNGS full participation EP exercise, scheduled for October 8, 2013, because all FEMA travel was cancelled except for life-saving activities.

Based on discussions with FEMA and the New Jersey Office of Emergency Management (NJOEM) representatives, the licensee does not consider it feasible to schedule and perform a full participation biennial exercise prior to the end of calendar year (CY) 2013.

By letter dated October 9, 2013, NJOEM notified the licensee that re-scheduling the OCNGS EP exercise to March 18, 2014, was acceptable. By letter dated October 10, 2013, FEMA sought concurrence from the New Jersey Deputy Superintendent Homeland Security,

State Police Division Headquarters, for the new proposed OCNGS full participation EP exercise, scheduled for March 18, 2014. It further provided that it was acceptable for the exercise to be conducted in early 2014.

By letter dated October 14, 2013, the licensee requested a one-time exemption from these requirements to allow a delay for the conduct of the biennial EP exercise from October 8, 2013, to March 18, 2014. The licensee's request states that due to the lapse in government funding appropriations, FEMA and NRC resources were unable to participate in the OCNGS EP exercise scheduled for October 8, 2013.

III. Discussion.

By letter dated December 19, 2013, the licensee stated that the proposed exemption is not a reduction in effectiveness of the OCNGS EP plan. Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, Appendix E, when: (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

Authorized by Law

This exemption would allow the Federal government response organizations to accommodate the Federal government shutdown impacts on their resources by postponing the OCNGS EP exercise from the previously scheduled date of October 8, 2013, until March 18, 2014.

As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50, Appendix E. The NRC staff has determined that granting of

the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

By letter dated December 19, 2013, the licensee stated that the proposed exemption is not a reduction in effectiveness of the OCNGS EP plan, and the NRC staff agrees.

The underlying purpose of 10 CFR 50, Appendix E, Sections IV.F.2.b and IV.F.2.c is to ensure that licensees test and maintain interfaces among themselves and affected State and local authorities during the intervals between biennial EP exercises by conducting EP activities and interactions. In order to accommodate the scheduling of full participation exercises, the NRC has allowed licensees to schedule the exercises at any time during the calendar biennium. Conducting the OCNGS full-participation EP exercise by March 18, 2014, rather than CY 2013, places the exercise outside of the required biennium. Since the last biennial EP exercise on September 27, 2011 (onsite and partial offsite demonstration), and June 12, 2012 (offsite demonstration), the licensee has conducted training evolutions supported by NJOEM and local emergency planning zone authorities. Although these drills and training sessions did not exercise all of the proposed rescheduled offsite functions, they do support the licensee's assertion that they have a continuing level of engagement with the State and local authorities to maintain interfaces. During the interim year, the NJOEM and the New Jersey Department of Environmental Protection, Bureau of Nuclear Engineering also successfully exercised the State Radiological Emergency Response Plan and Annex A for Salem/Hope Creek Nuclear Generating Stations on May 22, 2012.

Based on the above, no new accident precursors are created by allowing the licensee to postpone the biennial exercise from CY 2013 until CY 2014; thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent with Common Defense and Security

The proposed exemption would allow rescheduling of the OCNGS biennial EP exercise from the previously scheduled date of October 8, 2013, until March 18, 2014. This change to the EP exercise schedule has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

Special Circumstances

In order to grant exemptions in accordance with 10 CFR 50.12, special circumstances must be present. Special circumstances per 10 CFR 50.12 that apply to this exemption request are 10 CFR 50.12(a)(2)(ii) and (v). Special circumstances, per 10 CFR 50.12(a)(2)(ii), are present when: “[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.” Sections IV.F.2.b and IV.F.2.c of 10 CFR Part 50, Appendix E require licensees to exercise onsite and offsite plans biennially with full or partial participation by each offsite authority having a role under the plan. The underlying purposes of 10 CFR 50, Appendix E, Sections IV.F.2.b and IV.F.2.c are to require licensees to exercise onsite and offsite plans with offsite authority participation to test and maintain interfaces among affected State and local authorities and the licensee. The previous biennial EP exercise was successfully conducted on September 27, 2011, and June 12, 2012. Since this last demonstration, the licensee has conducted 10 onsite training drills/exercises/demonstrations and eight drills/exercises/demonstrations that have involved interface with State and local authorities in 2012 and 2013. The NRC staff considers these measures adequate to test and maintain interfaces with affected State and local authorities during this period, satisfying the underlying purpose of the rule.

Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or

applicant has made good faith efforts to comply with the regulation. The 10 onsite training drills/exercises/demonstrations and eight drills/exercises/demonstrations involving interface with State and local authorities in 2012 and 2013 demonstrate the licensee's good faith effort to comply with the regulations. The requested exemption to postpone the conduct of the biennial EP exercise to March 18, 2014, grants only temporary relief from the applicable regulation. Therefore, since the underlying purpose of 10 CFR 50, Appendix E, Sections IV.F.2.b and IV.F.2.c are achieved, the licensee has made a good faith effort to comply with the regulations, and the exemption would grant only temporary relief from the applicable regulation, the special circumstances required by 10 CFR 50.12(a)(2)(ii and v) exist for the granting of an exemption.

IV. Environmental Considerations.

The proposed exemption to postpone the OCNGS EP exercise from October 8, 2013, to March 18, 2014, does not increase the probability of an accident because EP exercises are not initiators of any design-basis event. Additionally, the proposed exemption does not involve any physical changes to plant systems, structures, or components (SSCs), or the manner in which these SSCs are maintained or controlled. Therefore, the proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed exemption does not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of OCNGS. Accordingly, the proposed exemption does not introduce any new accident initiators, nor does it reduce or adversely affect the capabilities of any plant structure or system in the performance of their safety function. Therefore, the proposed exemption does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed exemption does not impact the assumptions of any design-basis accident,

and does not alter assumptions relative to the mitigation of an accident or transient event. Also, the proposed exemption does not involve a significant reduction in a margin of safety.

The NRC staff has determined that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC proposes to determine that the exemption request involves no significant hazards consideration.

The NRC staff determined that the proposed exemption changes the EP exercise from October 8, 2013, to March 18, 2014, involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite; that there is no significant increase in individual or cumulative occupational radiation exposure; that there is no significant construction impact; and there is no significant increase in the potential for or consequences from a radiological accident.

The NRC staff has further determined that the requirements from which the exemption is sought involve the factors associated with 10 CFR 51.22(c)(25)(vi)(G) – scheduling

requirements. Specifically, the proposed exemption changes the EP exercise from October 8, 2013, to March 18, 2014.

Therefore, the criteria specified in 10 CFR 51.22(c)(25)(vi)(G) is satisfied, and accordingly, the exemption meets the eligibility criteria for exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment is required to be prepared with the issuance of the exemption.

V. Conclusion.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission, hereby grants Exelon Generation Company, LLC an exemption from the requirements of 10 CFR Part 50, Appendix E, Sections IV.F.2.b and IV.F.2.c to conduct the OCNCS biennial EP exercise required for 2013, permitting that EP exercise to be conducted in coordination with NRC and OCNCS schedules on March 18, 2014.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of December 2013.

FOR THE NUCLEAR REGULATORY COMMISSION

/ra/

Michele G. Evans, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation