



Dresden Nuclear Power Station

6500 North Dresden Road
Morris, IL 60450

815 942 2920 Telephone
www.exeloncorp.com

SVPLTR# 15-0009

January 26, 2015

Cynthia D. Pederson
Regional Administrator
U.S. Nuclear Regulatory Commission, Region III
2443 Warrenville Road, Suite 210
Lisle, Illinois 60532-4352

Subject: Request for Relaxation of Condition V(A)(A.1(1)) of Confirmatory Order
EA-13-068

References:

- 1) Letter from C. D. Pederson (NRC) to M. J. Pacilio (Exelon Generation Company, LLC (EGC)), "Confirmatory Order; NRC Report Nos. 05000237/2013407 (DRS); 05000249/2013407 (DRS) and Investigation Report No. 3-2012-020; Dresden Nuclear Power Station, Units 2 and 3," dated October 28, 2013
- 2) Letter from P. R. Simpson (EGC) to K. O'Brien (NRC), "Response to Confirmatory Order EA-13-068," dated September 30, 2014
- 3) U. S. Government National Labor Relations Board Settlement Agreement In the Matter of Exelon Generation Company, LLC, Case 13-CA-118294, effective December 29, 2014
- 4) Notice to Employees Posted Pursuant to a Settlement Agreement Approved by a Regional Director of the National Labor Relations Board in the matter of Exelon Generation Company, LLC, Case 13-CA-118294
- 5) Consolidated Complaint in the matter of Exelon Generation Company, LLC, Case Nos. 13-CA-118294 and 13-CA-132028, dated November 28, 2014
- 6) Exelon Generation Company, LLC's Answer to Consolidated Complaint, Case Nos. 13-CA-118294 and 13-CA-132028, dated December 12, 2014

By letter dated October 28, 2013 (Reference 1), the NRC issued a Confirmatory Order Modifying License to Exelon Generation Company, LLC (EGC) (License Nos. DPR-19 and DPR-25) to EGC in conjunction with the settlement of an apparent violation of the behavioral observation program reporting obligations under 10 CFR 73.56(a)(2), (f)(1) and (f)(3) resulting from the failure of a former EGC employee who held unescorted access to report knowledge of other employees' plans to commit an off-duty crime.

Pursuant to Section V of the Confirmatory Order (Reference 1) and a Settlement Agreement (References 3 and 4) entered with the National Labor Relations Board (NLRB) (i.e., NLRB Settlement or NLRB Settlement Agreement), EGC requests relaxation of the Confirmatory Order to permit a temporary rescission of the additional guidance to employees concerning their reporting obligations provided in Section 3.2 of EGC's Behavioral Observation Program (BOP),

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Revision 10, that EGC adopted pursuant to Section V(A)(A.1(1)) of the Confirmatory Order.¹ The purpose of this request is to allow EGC and Local 15, International Brotherhood of Electrical Workers² (Local 15) to bargain for up to ninety days over the additional guidance to employees concerning their reporting obligations that was adopted pursuant to Section V(A)(A.1(1)) of the Confirmatory Order.³

The Confirmatory Order and Revisions to EGC's BOP

On June 6, 2012, the NRC commenced an investigation "to determine if a Senior Reactor Operator (SRO), an Equipment Operator (EO), or any other personnel at the Dresden Station knew that a SRO planned to commit an off-site crime and failed to report that SRO for aberrant behavior" (Reference 1, Encl. 1, p. 1.). The NRC identified apparent violations of 10 CFR 73.56(a)(2), (f)(1), and (f)(3) resulting from, among other things, the failure of an EGC employee who held unescorted access to report knowledge of other employees' plans to commit a crime while off-duty (Reference 1, Encl. 1, p. 2.).

On September 18, 2013, EGC and the NRC participated in alternative dispute resolution, which resulted in a settlement and EGC's consent to the Confirmatory Order (Reference 1, Encl. 1, p 3). The Confirmatory Order recognized that following the incidents giving rise to the NRC allegations and before the settlement, EGC had issued SY-AA-103-513, "Behavioral Observation Program," Revision 9, which contained a requirement that employees holding unescorted access report off-site illegal activity they observe by other employees with unescorted access (Reference 1, Encl. 1, Section III(A), p. 3). The Confirmatory Order mandates that EGC maintain the changes in Revision 9 of the BOP procedure in force. But the Confirmatory Order further stated that the Revision 9 changes were not sufficient. The Confirmatory Order requires that in addition to retaining the changes contained in SY-AA-103-513, Revision 9, within ninety days from the date of the Confirmatory Order, EGC "revise procedure SY-AA-103-513, 'Behavioral Observation Program': (1) to provide additional guidance on the types of offsite activities, if observed, or credible information that should be reported to reviewing officials, and (2) to ensure that procedural requirements to pass information forward without delay are clearly communicated." (Reference 1, Encl. 1, Section V(A)(A.1(1)), p. 7; Section III(B)(B.1(1)), at p. 4)

¹ In making this request, EGC does not admit that it violated any obligation to bargain with Local 15 regarding the revisions at issue.

² Local 15 represents the non-supervisory employees (with the exception of security officers) at EGC's Braidwood, Byron, Dresden, LaSalle and Quad Cities nuclear generating stations in Illinois. Local 15 does not represent any EGC employees outside of Illinois.

³ Section III of the Confirmatory Order recites the terms of the agreement reached by EGC and the NRC during alternative dispute resolution. The term in Section III(B)(B.1(1)) mirrors the requirement in Section V(A)(A.1(1)) of the Confirmatory Order. To the extent the Confirmatory Order establishes EGC's commitments in Section V, EGC requests relaxation of Section V(A)(A.1(1)). To the extent that Section III(B) reflects EGC's agreement, EGC requests that the Regional Administrator's determination apply to both Sections III(B)(B.1(1)) and V(A)(A.1(1)).

In accordance with this commitment, EGC revised its BOP to provide the additional guidance required by the Confirmatory Order and issued the additional guidance in SY-AA-103-513, Revision 10. As required by the Confirmatory Order, the additional guidance was issued to the entire EGC fleet of operating reactors in existence as of the date of the Confirmatory Order within the ninety day deadline. EGC has met with Local 15 to discuss the additional guidance provided in Revision 10, but has not bargained with Local 15 over those changes.

The Confirmatory Order also required EGC to provide training to its staff on the revisions made to the BOP, make a presentation based on the lessons learned at an industry forum, and submit an operating experience summary to an industry wide organization (Reference 1, Encl. 1, Section V(A)(A.2) and (B)). EGC complied with these requirements (Reference 2). Finally, the Confirmatory Order requires EGC to, within eighteen months of the effective date of the Confirmatory Order, develop and conduct an effectiveness assessment of its revised procedure and general employee training to determine if EGC personnel remain aware of the need to report observed offsite aberrant behavior or credible information (Reference 1, Encl. 1, Section V(A.3), p. 7). EGC intends to conduct an effectiveness assessment of the procedural requirement that employees report the offsite, illegal activities of their co-workers, as required by SY-AA-103-513, Revision 9 and maintained in Revision 10.

SY-AA-103-513, Revisions 9 and 10

As noted in the Confirmatory Order (Reference 1, Section III(A)), shortly after the events giving rise to the apparent violation, EGC updated its BOP and issued SY-AA-103-513, Revision 9 to make clear that the reporting obligations applied to “off-site illegal activity” observed for “any individuals escorted and unescorted.”

Following issuance of the Confirmatory Order, in compliance with the Section V(A)(A.1(1)) requirement for EGC to “provide additional guidance on the types of offsite activities, if observed, or credible information that should be reported to reviewing officials,” EGC issued that additional guidance in SY-AA-103-513, Revision 10. EGC updated the list of “possible signs or indicators of” behavior, issues, or events already identified in Revision 9 as the types to be reported to make clear that the list applied whether the behavior, issue, or event occurs “on-site or off-site.” EGC also expanded the list to include “extreme opposition to or distrust of the government or memberships in anti-government groups or other groups that promote the overthrow of the government” and “membership in clubs, groups, or organizations that promotes or advocates violence or that engage in violent activities.” EGC also provided examples of offsite criminal activity to be reported:

Engaging in criminal activity, or having discussions about engaging in criminal activity, or making plans to commit a crime, including credible information of such activity, or discussions, or plans. This requirement applies to serious criminal offenses, including but not limited to:

1. Burglary, armed robbery, manslaughter, murder, assault,, domestic violence;
2. Embezzlement or other forms of theft;
3. Conspiracy to commit a crime;

4. Terrorist activity or known terrorist associations;
5. The use, sale, distribution or possession of illegal drugs, including prescription drugs taken or distributed without a valid prescription;
6. Efforts to recruit others to be involved in criminal activities.
7. (This requirement does not apply to minor misdemeanor charges, such as parking tickets, non-injury traffic and speeding tickets, moving violations when an individual is not physically taken into custody and a court appearance is not required).

The NLRB Unfair Labor Practice Charges

The National Labor Relations Act, as interpreted by the NLRB, requires a unionized employer such as EGC to bargain with the union before making "material, substantial and significant" changes to represented employees' terms and conditions of employment. *Crittenton Hospital*, 342 NLRB 686 (2004) (citing *Peerless Food Products*, 236 NLRB 161 (1978); *Berkshire Nursing Home, LLC*, 345 NLRB 220 (2005)). The NLRB also holds that in certain situations, an employer is not obligated to bargain with the union over its decision to make certain changes in employees' terms and conditions of employment, but is obligated to bargain over the effects of those changes on the employees. *First National Maintenance Corp. v. NLRB*, 452 U.S. 666, 672 (1981). Also, although an employer is not obligated to bargain over changes that are *mandated* by other laws and made to comply with those laws, where another law gives the employer discretion on how to comply, the employer must, on request, bargain with the union over those discretionary items, if the discretionary items result in material, substantial and significant changes to terms of employment. *Hanes Corp.*, 260 NLRB 557 (1982); *J. P. Stevens & Co.*, 239 NLRB 738, 742-743 (1978); *Kendall College of Art*, 292 NLRB 1065, 1068 (1989)

Following issuance of the Confirmatory Order, Local 15 filed unfair labor practice charges with the NLRB alleging that EGC violated its obligation to bargain with Local 15 by (a) agreeing to the Settlement Agreement and Confirmatory Order; (b) making the revisions contained in SY-AA-103-513, Revision 9, and (c) making the revisions contained in SY-AA-103-513, Revision 10.⁴ Local 15 requested rescission of the changes in both SY-AA-103-513, Revisions 9 and 10. EGC denied all of Local 15's allegations and objected to its requests for relief. The NLRB concluded that EGC was not obligated to bargain over the decision to enter the Settlement Agreement and consent to the Confirmatory Order or the decision to retain the

⁴ Local 15 also filed a Petition to Intervene and Request for Hearing with the NRC on December 12, 2013. In its Petition, Local 15 asserted that the Confirmatory Order should not be sustained because it imposed obligations on off-duty Local 15 member employees that exceeded the scope of the regulatory requirements, imposed vague and overbroad reporting requirements, and endorsed EGC's alleged violation of its duty to bargain under federal labor law. *In the matter of Exelon Generation Company, LLC (Dresden Nuclear Power Station, Units 2 and 3)*, Docket Nos. 50-237-EA and 50-249-EA (December 12, 2013). On April 17, 2014, the Atomic Safety and Licensing Board denied the Petition to Intervene and Request for Hearing. *In the matter of Exelon Generation Company, LLC (Dresden Nuclear Power Station, Units 2 and 3)*, ASLBP No. 14-930-01-EA-BD01, LBP-14-04, Docket Nos. 50-237-EA and 50-249-EA (April 17, 2014). On May 14, 2014, Local 15 submitted an appeal to the Commission. The matter has been fully briefed and remains pending before the Commission.

changes confirmed in Revision 9 of the BOP and was not required to rescind Revision 9 of the BOP. The NLRB further concluded that EGC did have an obligation to bargain over the effects of those decisions and over the "additional guidance" to employees contained in SY-AA-103-513, Revision 10 (Reference 5). Specifically, the NLRB asserts that EGC was obligated to and failed to give Local 15 notice and an opportunity to bargain "over the effects of our decision to implement changes in the terms and conditions of [the employees'] employment that we made pursuant to the Nuclear Regulatory Commission Confirmatory Order dated October 28, 2014," and alleged that SY-AA-103-513, Revision 10 should be rescinded to allow such bargaining (Reference 5). EGC denied the allegations (Reference 6).

The Request to Relax the Confirmatory Order and Temporarily Rescind Portions of Revision 10

Without admitting that it has violated the NLRA, EGC has decided that it is in its best interest to settle the unfair labor practice charges with the NLRB and to agree, subject to NRC approval, to bargain with Local 15 over the content of the additional guidance to be provided regarding "the types of offsite activities, if observed, or credible information that should be reported to reviewing officials" that was adopted in Section 3.2 of SY-AA-103-513, Revision 10 to comply with Section V(A)(A.1(1)) of the Confirmatory Order (References 3 and 4). Because this guidance was mandated by the Confirmatory Order, EGC cannot rescind SY-AA-103-513, Revision 10 so as to allow bargaining unless the NRC agrees to relax the Confirmatory Order to allow EGC to temporarily rescind that additional guidance to allow such bargaining. Such a rescission would return employees represented by Local 15 to SY-AA-103-513, Revision 9 which requires employees to report "off-site illegal activity" observed for "any individuals escorted and unescorted." (Reference 3, p. 13, Section 4.1.8(1)) In addition, all EGC employees, including Local 15 employees, will be required to comply with all applicable regulatory requirements related to behavioral observation.

Section V of the Confirmatory Order provides that the "Regional Administrator, Region III may, in writing, relax or rescind any of the above conditions upon demonstration by Exelon of good cause." Good cause for the requested relaxation of the Confirmatory Order exists based on the NLRB's determination (over EGC's objections) that Local 15's rights were violated because it did not have an opportunity to bargain over the effects of the additional guidance to be provided in a revised BOP. If the NRC grants the requested relaxation of the Confirmatory Order, then, pursuant to the Settlement Agreement, EGC will, at Local 15's request, "bargain for 90 days concerning . . . the additional guidance to employees concerning [their] reporting obligations that was adopted pursuant to the NRC Order, that apply to the Unit (excluding changes that apply to management) and which [EGC] intend[s] to include in a revision to the BOP [Revision] 10 to comply with the NRC Order." In other words, EGC will bargain over the content of the additional guidance to be provided to employees and over other changes to the BOP that are within EGC's discretion (i.e., not mandated by NRC regulations or the Confirmatory Order). EGC will comply with the Confirmatory Order as amended and the NRC regulations relating to its Behavioral Observation Program.

Based on the foregoing, EGC requests that the NRC Region III Administrator relax the Confirmatory Order to permit a temporary rescission of the additional guidance to employees concerning their reporting obligations provided in Section 3.2 of SY-AA-103-513, Revision 10 to allow EGC and Local 15 to bargain pursuant to the NLRB Settlement for up to 90 days over the

effects of EGC's decisions to make revisions to its BOP to comply with the Confirmatory Order. If the request is granted, EGC requests that the temporary rescission of the additional guidance in BOP Revision 10 required by the Confirmatory Order would begin within one week of the Region III Administrator advising EGC of the decision to relax the Confirmatory Order and would end no later than six months from the date of the Region III Administrator's decision to relax the Confirmatory Order. EGC anticipates that this six month period would be sufficient to complete all activities, including EGC notifying Local 15 of the Region III Administrator's decision, Local 15 making a formal request to bargain, the parties bargaining for a ninety day period, and EGC finalizing the additional guidance required by the Confirmatory Order and reissuing the BOP procedure with the additional guidance.

This letter contains no new regulatory commitments. If you have any questions or require additional information, please contact Mitchel Mathews at (630) 657-2819.

Respectfully,



Shane Marik
Site Vice President – Dresden Nuclear Power Station
Exelon Generation Company, LLC

Attachments:

1. U. S. Government National Labor Relations Board Settlement Agreement In the Matter of Exelon Generation Company, LLC, Case 13-CA-118294, effective December 29, 2014
2. Notice to Employees Posted Pursuant to a Settlement Agreement Approved by a Regional Director of the National Labor Relations Board in the matter of Exelon Generation Company, LLC, Case 13-CA-118294
3. Consolidated Complaint in the matter of Exelon Generation Company, LLC, Case Nos. 13-CA-118294 and 13-CA-132028, dated November 28, 2014
4. Exelon Generation Company, LLC's Answer to Consolidated Complaint, Case Nos. 13-CA-118294 and 13-CA-132028, dated December 12, 2014

cc: Jared Heck, Region III Regional Counsel
Norman St. Amour, NRC OGC

Dresden Nuclear Power Station

Request for Relaxation of Condition V(A)(A.1(1)) of Confirmatory Order EA-13-068

ATTACHMENT 1

U. S. Government National Labor Relations Board Settlement Agreement In the Matter of
Exelon Generation Company, LLC, Case 13-CA-118294, effective December 29, 2014



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 13
209 S La Salle St Ste 900
Chicago, IL 60604-1443

Agency Website: www.nlr.gov
Telephone: (312)353-7570
Fax: (312)886-1341

Agent's Direct Dial: (312)353-7170

January 2, 2015

Todd D. Steenson, Esq.,
Assistant General Counsel
Exelon Generation Company, LLC
10 S Dearborn St., Fl 49
Chicago, IL 60603-2300

Re: Exelon Generation Company, LLC
Case 13-CA-118294

Dear Mr. Steenson:

Post Notice: Enclosed are 10 copies of the Notice to Employees. In compliance with the Agreement, a responsible official of the Employer, not the Employer's attorney, must sign and date the Notices before posting them. The Notices should be posted in *the cafeterias and break rooms located in Braidwood, Byron, Dresden, LaSalle and Quad Cities nuclear facilities* for 60 consecutive days at the Employer's place of business. The Employer must take reasonable steps to ensure that the Notices are not altered, defaced or covered by other material. If additional Notices are required, please let me know. During the posting period, a member of the Regional Office staff may visit the Employer to inspect the Notices.

Electronic Posting: The Agreement provides that the Employer will post a copy of the Notice on its intranet and keep it continuously posted there for 60 consecutive days. The Employer will furnish the Regional Office with a paper copy of the intranet or website posting along with the attached completed Certification of Posting and dated screen shots demonstrating the date of posting.

Electronic Mailing: The Agreement provides that the Employer will email to employees a copy of the signed Notice. The message of the e-mail transmitted with the Notice will state: "We are distributing the Attached Notice to Employees to you pursuant to a Settlement Agreement approved by the Regional Director of Region 13 of the National Labor Relations Board in Case 13-CA-118294." The Employer will forward to the undersigned, at the time that it is sent, the e-mail transmitting the Notice to employees, with all of the recipient's e-mail addresses to thomas.porter@nlrb.gov.

Certification of Posting: A Certification of Posting form is also enclosed. This form should be completed and returned by not later than January 9, 2014 **with one signed and dated original Notice**. If the Certification of Posting and signed Notice is returned via e-file or e-mail, no hard copies of the Certification of Posting or Notice are required.

Remedial Actions:

Other Remedies: The Agreement also provides that the Employer will file with the Nuclear Regulatory Commission a request to amend the NRC Order to permit a temporary rescission of the additional guidance to employees concerning your reporting obligations provided in Section 3.2 of Behavioral Observation Program Revision 10 ("BOP 10"). If the request is granted, please submit a copy of the notice from the NRC granting rescission.

Please read all the terms of the Settlement Agreement and Notice carefully, as you will be expected to comply with all such provisions. If you have any questions or I can assist you, please let me know.

Closing the Case: When all the affirmative terms of the Settlement Agreement have been fully complied with and there are no reported violations of its negative terms, you will be notified that the case has been closed on compliance. Timely receipt of the signed and dated Notice to Employees and the Certification of Posting will assist us in closing the case in a timely manner.

Very truly yours,

/s/ Thomas B. Porter

THOMAS B. PORTER
Compliance Officer

Enclosures: Copy of Conformed Settlement Agreement
Notices to Employees
Certification of Posting

cc: Steven L. Gillman, Attorney
Holland & Knight LLP
131 South Dearborn Street, 30th Floor
Chicago, IL 60603-5583

Rochelle G. Skolnick, Attorney
Schuchat, Cook & Werner
1221 Locust St., Ste. 250
Saint Louis, MO 63103-2364

Eddie Clopton Jr.,
Assistant General Counsel
Exelon Generation Company, LLC
10 S Dearborn St., Fl 49
Chicago, IL 60603-2300

Marilyn S. Teitelbaum, Attorney
Schuchat, Cook, Werner
1221 Locust St., Ste. 250
Saint Louis, MO 63103-2364

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF

Exelon Generation Company, LLC

Case 13-CA-118294

Subject to the approval of the Regional Director for the National Labor Relations Board, the Charged Party and the Charging Party **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

POSTING OF NOTICE — After the Regional Director has approved this Agreement, the Regional Office will send copies of the approved Notice to the Charged Party in English and in additional languages if the Regional Director decides that it is appropriate to do so. A responsible official of the Charged Party will then sign and date those Notices and immediately post them in its cafeterias and break rooms located at their Braidwood; Byron; Dresden; LaSalle; and Quad Cities nuclear facilities. The Charged Party will keep all Notices posted for 60 consecutive days after the initial posting.

INTRANET POSTING - The Charged Party will also post a copy of the Notice in English and in additional languages if the Regional Director decides that it is appropriate to do so, on its intranet and keep it continuously posted there for 60 consecutive days from the date it was originally posted. The Charged Party will submit a paper copy of the intranet or website posting to the Region's Compliance Officer when it submits the Certification of Posting and will provide additional dated screenshots from its intranet site in the event it is necessary to check the electronic posting.

E-MAILING NOTICE - The Charged Party will email a copy of the signed Notice in English and in additional languages if the Regional Director decides that it is appropriate to do so, to all employees who work at the facility located at the Dresden Nuclear Generating Station at their Exelon e-mail addresses. The message of the e-mail transmitted with the Notice will state: "We are distributing the Attached Notice to Employees to you pursuant to a Settlement Agreement approved by the Regional Director of Region 13 of the National Labor Relations Board in Case 13-CA-118294." The Charged Party will forward a copy of that e-mail, with all of the recipients' e-mail addresses, to the Region's Compliance Officer at thomas.porter@nrlrb.gov.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

Non-Admission Clause — By entering into this Settlement Agreement, the Charged Party does not admit that it has violated the National Labor Relations Act.

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), and does not settle any other case(s) or matters, including but not limited to NLRB Case 13-CA-132028. It does not prevent persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters that happened before this Agreement was approved regardless of whether General Counsel knew of those matters or could have easily found them out. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to that evidence. By approving this Agreement the Regional Director withdraws any Complaint(s) and Notice(s) of Hearing previously issued in the above case(s), and the Charged Party withdraws any answer(s) filed in response.

PARTIES TO THE AGREEMENT — If the Charging Party fails or refuses to become a party to this Agreement and the Regional Director determines that it will promote the policies of the National Labor Relations Act, the Regional Director may approve the settlement agreement and decline to issue or reissue a Complaint in this matter. If that occurs, this Agreement shall be between the Charged Party and the

Recommended By:	Date	Approved By:	Date
<i>/s/ Lisa Friedheim-Weis,</i> Board Attorney	12/29/2014	<i>/s/ Peter Sung Ohr</i> Regional Director, Region 13	12/31/2014

CERTIFICATION OF POSTING

**RE: Exelon Generation Company, LLC
Case 13-CA-118294**

1. Physical Posting

The Notice to Employees in the above matter was posted on _____ (insert date)

at the following locations: (List specific places of posting)

2. Intranet Posting

The Notice to Employees in the above matter was posted on the Employer's Intranet/Website on (insert date) _____. A copy of the intranet/website posting is attached.

3. Electronic Distribution

The Notice to Employees in the above captioned matter was also distributed electronically on (date) _____ by the following means. (State means of distribution **and attach proof.**)

CHARGED PARTY/RESPONDENT

By: _____

Title: _____

Date: _____

This form should be returned to the Regional Office, together with **ONE** original Notice dated and signed in the same manner as those posted.

CERTIFICATION OF COMPLIANCE

**RE: Exelon Generation Company, LLC
Case 13-CA-118294**

I _____ certify that I have undertaken the following steps to comply with the Settlement Agreement in the above captioned case:

I have filed with the Nuclear Regulatory Commission a request to amend the NRC Order to permit a temporary rescission of the additional guidance to employees concerning your reporting obligations provided in Section 3.2 of Behavioral Observation Program Revision 10 ("BOP 10"). If the request is granted, please submit a copy of the notice from the NRC granting rescission.

CHARGED PARTY/RESPONDENT

By: _____

Title: _____

Date: _____

This form should be returned to the Regional Office dated and signed.

Dresden Nuclear Power Station

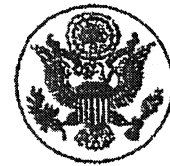
Request for Relaxation of Condition V(A)(A.1(1)) of Confirmatory Order EA-13-068

ATTACHMENT 2

Notice to Employees Posted Pursuant to a Settlement Agreement Approved by a Regional
Director of the National Labor Relations Board in the matter of
Exelon Generation Company, LLC, Case 13-CA-118294



NOTICE TO EMPLOYEES



POSTED PURSUANT TO A SETTLEMENT AGREEMENT APPROVED BY A REGIONAL DIRECTOR OF THE NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT
EXELON GENERATION COMPANY, LLC
Case 13-CA-118294

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to provide International Brotherhood of Electrical Workers, Local 15 ("Union") with notice and an opportunity to bargain as the exclusive collective-bargaining representative of our employees in the unit described in our collective-bargaining agreement with the Union ("Unit"), effective by its terms from October 1, 2007 to April 30, 2013, over the effects of our decision to implement changes in the terms and conditions of your employment that we made pursuant to the Nuclear Regulatory Commission Confirmatory Order dated October 28, 2014 ("NRC Order").

WE WILL NOT fail and refuse to bargain in good faith with the Union as the exclusive collective-bargaining representative of our employees in the Unit.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL file with the Nuclear Regulatory Commission a request to amend the NRC Order to permit a temporary rescission of the additional guidance to employees concerning your reporting obligations provided in Section 3.2 of Behavioral Observation Program Revision 10 ("BOP 10") that was adopted pursuant to the NRC Order, and if the NRC grants our request, **WE WILL**, upon request, bargain in good faith with the Union for 90 days concerning any changes to any portion of the BOP 10, including but not limited to the additional guidance to employees concerning your reporting obligations that was adopted pursuant to the NRC Order, that apply to the Unit (excluding changes that apply to management) and which we intend to include in a revision to the BOP 10 to comply with the NRC Order. If any agreement is reached between the parties concerning changes to the Behavior Observation Plan and if required by the NRC, we will submit any written agreement resulting from such bargaining to the NRC for their approval or review.

EXELON GENERATION COMPANY, LLC
(Employer)

Dated: _____ By: _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov and the toll-free number (866)687-NLRB (6572).

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.

Thomas Porter at (312) 353-7170
209 South LaSalle Street, 9th Floor, Chicago, Illinois 60604-1219
Telephone: (312) 353-7571 Hours of Operation: 8:30 a.m. to 5:00 p.m.

Dresden Nuclear Power Station

Request for Relaxation of Condition V(A)(A.1(1)) of Confirmatory Order EA-13-068

ATTACHMENT 3

Consolidated Complaint in the matter of Exelon Generation Company, LLC,
Case Nos. 13-CA-118294 and 13-CA-132028, dated November 28, 2014

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

EXELON GENERATION COMPANY, LLC

and

**Case 13-CA-118294
13-CA-132028**

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 15**

**ORDER CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board), and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 13-CA-118294 filed by International Brotherhood of Electrical Workers, Local 15 (Union or Charging Party) against Exelon Generation Company, LLC (Respondent), in which a Complaint and Notice of Hearing issued on February 14, 2014, is consolidated with Case 13-CA-132028 filed by the Charging Party against Respondent.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below:

I

(a) Charge 13-CA-118294 in was filed by the ,m on December 4, 2013, and a copy was served by regular mail on Respondent on December 4, 2013.

(b) Charge 13-CA-132028 in this proceeding was filed by the Charging Party on June 30, 2014, and a copy was served on Respondent by regular mail on July 2, 2014.

II

(a) At all material times, Respondent, a Pennsylvania limited liability company with an office and place of business in Warrenville, Illinois, has been a public utility company engaged in the business of operating nuclear power generating stations in the State of Illinois.

(b) In conducting its operations annually, Respondent derived gross revenues in excess of \$250,000.

(c) During the period of time described above in paragraph II(b), Respondent purchased and received for use at its Illinois facilities products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

(d) At all material times, the Respondent, has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

III

At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

IV

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Tony Cardenas	-	Manager – Employee and Labor Relations
Jim Meister	-	Vice President – Operations Support

V

(a) The following employees of Respondent at constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

The bargaining unit as described in Article 1 of the Charging Party's collective-bargaining agreement with the Charging Party effective by its terms from October 1, 2007, to April 30, 2013.

(b) Since 1946 and at all material times, Respondent has recognized the Charging Party as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective from October 1, 2007, to April 30, 2013.

(c) At all times since 1946, based on Section 9(a) of the Act, the Charging Party has been the exclusive collective-bargaining representative of the Unit.

VI

(a) About November 21, 2013, the Charging Party requested that Respondent bargain collectively about the effects of its decision to implement changes in the terms and conditions of employment that were implemented pursuant to a Nuclear Regulatory Commission (NRC) Confirmatory Order dated October 28, 2013.

(b) Since about November 21, 2013, Respondent has failed and refused to bargain collectively with the Charging Party about the subject set forth above in paragraph VI(a).

(c) The subject set forth above in paragraph VI(a) relates to the wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

VII

(a) About the following dates, the Union requested, in writing, that Respondent furnish the Union with the following information:

- i. Within the last six months preceding the filing and service of the charge in Case 13-CA-132028– Written notes and summaries from interviews conducted by certified abuse counselors or other service providers with grievants prior to those counselors making their determinations and treatment recommendations.
- ii. January 28, 2014 – separately by year, the number of non-bargaining unit and bargaining unit employees since January 1, 2003, who were referred for evaluation for possible alcohol issues and the number of those employees who received a permanent alcohol abstinence letter.
- iii. January 28, 2014 – all communications to and from those who interviewed, evaluated, or otherwise had some sort of role relating to the assessment/evaluation and work related treatment recommendations of those employees referred for possible alcohol abuse since January 1, 2008.
- iv. March 18, 2014 – all documents related to a January 21, 1997, letter previously provided by employer from Patrick Laird to grievant Robert Tate confirming the continuation of Tate’s unescorted access within Respondent’s facilities.
- v. March 18, 2014 – readable copies of nine (9) documents the employer previously provided, consisting of an employee entrance checklist of Michael Jaborek, January 16, 1986, notes regarding an “Incident of sexual harassment”, a December letter from Peter Karaba to Charles Reader, the Dresden accident report regarding Arthur Kleinfeldt, the June 6, 1998, handwritten notes regarding Arthur Kleinfeldt, the March 19, 2012, report from Connie Vaisvilas-Taylor regarding Dustin Keenan, the March 24, 2013, report form Connie Vaisvilas-Taylor regarding Charles Reader, the December 12, 2012, psychological assessment/SAE review form regarding Michael Jaborek, the June 28, 1993, report regarding four occurrences of Code 22 of Christopher Smith including attachments, and several missing “bates stamped” documents.
- vi. June 4, 2014 – the name and resume of the independent consultant used by Respondent, copies of everything provided to the consultant prior to receiving his or her recommendations, and all other notes, documents, reports provided by the independent consultant that were used by Respondent in its review of each grievant’s EAP file and in support of recommendations as to whether those grievants were to maintain total alcohol abstinence.
- vii. August 12, 2014 – request for the Respondent to provide the titles and job descriptions for seventeen (17) named individuals and their role in identifying alcohol abusers and alcohol dependent employees.

viii. September 23, 2014 - specific criteria applied and diagnostic documents, including assessment guides, used by the MRO and EAP to determine whether or how long to require an employee's abstinence from alcohol.

(b) The information requested by the Union, as described above in paragraph VII(a)(i)-(viii) is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) Since about the following dates, Respondent, has failed and refused to furnish the Union with the information requested by it as described above in paragraph VII(a)(i)-(viii).

- i. Within the last six months preceding the filing and service of the charge in Case 13-CA-132028.
- ii. February 27, 2014.
- iii. February 27, 2014.
- iv. June 6, 2014.
- v. June 25, 2014.
- vi. June 25, 2014.
- vii. September 19, 2014
- viii. September 23, 2014.

VIII

(a) By the conduct described above in paragraphs VI and VII, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

(b) The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before December 12, 2014, or postmarked on or before December 11, 2014.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **January 27, 2015 at 10:00 a.m. at 209 South LaSalle Street, Suite 900, Chicago, Illinois** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: November 28, 2014

/s/ Peter Sung Ohr

PETER SUNG OHR
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 13
209 S La Salle St Ste 900
Chicago, IL 60604-1443

Attachments

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

EXELON GENERATION COMPANY, LLC

and

Case 13-CA-132028

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 15**

AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on , I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

Eddie Clopton JR., Assistant General Counsel
Exelon Generation Company, LLC
10 S Dearborn St
F1 49
Chicago, IL 60603-2300

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Marilyn S. Teitelbaum , Attorney
Schuchat, Cook, Werner
1221 Locust St., Ste. 250
Saint Louis, MO 63103-2364

REGULAR MAIL

Edwin D. Hill , International President
International Brotherhood of Electrical Workers, AFL-CIO
900 7th Street NW
Washington, DC 20001-4070

REGULAR MAIL

International Brotherhood of Electrical Workers, Local 15
6330 Belmont Rd
Suite 1
Downers Grove, IL 60516

CERTIFIED MAIL

November 28, 2014

Date

Denise Gatsoudis, Designated Agent of NLRB

Name

/s/ Denise Gatsoudis

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 13-CA-132028

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Eddie Clopton JR., Assistant General Counsel
Exelon Generation Company, LLC
10 S Dearborn St
Fl 49
Chicago, IL 60603-2300

Edwin D. Hill , International President
International Brotherhood of Electrical
Workers, AFL-CIO
900 7th Street NW
Washington, DC 20001-4070

Marilyn S. Teitelbaum , Attorney
Schuchat, Cook, Werner
1221 Locust St., Ste. 250
Saint Louis, MO 63103-2364

International Brotherhood of Electrical
Workers, Local 15
6330 Belmont Rd
Suite 1
Downers Grove, IL 60516

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.

- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.
- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

Dresden Nuclear Power Station

Request for Relaxation of Condition V(A)(A.1(1)) of Confirmatory Order EA-13-068

ATTACHMENT 4

Exelon Generation Company, LLC's Answer to Consolidated Complaint,
Case Nos. 13-CA-118294 and 13-CA-132028, dated December 12, 2014

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

EXELON GENERATION COMPANY, LLC)	
)	
and)	Case No.: 13-CA-118294
)	Case No.: 13-CA-132028
)	
INTERNATIONAL BROTHERHOOD OF)	
ELECTRICAL WORKERS, LOCAL 15)	

ANSWER TO CONSOLIDATED COMPLAINT¹

Pursuant to Section 102.20 of the Rules and Regulations of the National Labor Relations Board, Respondent Exelon Generation Company, LLC ("Respondent"), by counsel, answers the Consolidated Complaint as follows:

GENERAL DENIAL

Except as expressly stated herein, Exelon Generation denies each and every allegation contained in the Complaint, including, without limitation, any allegations contained in the preamble, headings, or subheadings of the Complaint. Exelon Generation specifically denies that it or any parent, related or affiliated entity violated the National Labor Relations Act ("NLRA" or "Act") in any of the manners alleged in the Complaint or in any other manner. Pursuant to Section 102.20 of the Board's rules, averments in the Complaint to which no responsive pleading is required shall be deemed as denied. Exelon Generation expressly reserves the right to seek to amend and/or supplement its Answer as may be necessary.

SPECIFIC ANSWERS AND DENIALS

Exelon Generation states as follows in response to the specific allegations of the Complaint:

¹ Respondent objects to the consolidation of these cases and will file a Motion to Sever in the event Case No.: 13-CA-118294 is not resolved soon.

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board), and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 13-CA-118294 filed by International Brotherhood of Electrical Workers, Local 15 (Union or Charging Party) against Exelon Generation Company, LLC (Respondent), in which a Complaint and Notice of Hearing issued on February 14, 2014, is consolidated with Case 13-CA-132028 filed by the Charging Party against Respondent.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Board's Rules and Regulations, and alleges Respondent has violated the Act as described below:

ANSWER: Exelon Generation denies the allegations contained in the preamble, except to admit that International Brotherhood of Electrical Workers, Local 15 has charged in cases 13-CA-118294 and 13-CA-132028 that Exelon Generation has engaged in certain unfair labor practices prohibited by the NLRA, and that the General Counsel of the NLRB has issued this Consolidated Complaint and Notice of Hearing based upon those charges pursuant to the NLRA. Exelon Generation objects to the consolidation of these wholly unrelated cases.

I

(a) Charge 13-CA-118294 in this proceeding was filed by the Charging Party on December 4, 2013, and a copy was served by regular mail on Respondent on December 4, 2013.

ANSWER: Exelon Generation lacks knowledge or information sufficient to form a belief as to the allegations, except to admit that, on or around December 4, 2013, Exelon Generation received a copy of a charge, designated as 13-CA-118294.

(b) Charge 13-CA-132028 in this proceeding was filed by the Charging Party on June 30, 2014, and a copy was served on Respondent by regular mail on July 2, 2014.

ANSWER: Exelon Generation lacks knowledge or information sufficient to form a belief as to the allegations, except to admit that, on or around July 2, 2014, Exelon Generation received a copy of a charge, designated as 13-CA-132028.

II

(a) At all material times, Respondent, a Pennsylvania limited liability company with an office and place of business in Warrenville, Illinois, has been a public utility company engaged in the business of operating nuclear power generating stations in the State of Illinois.

ANSWER: Except to admit that Respondent is a Pennsylvania limited liability company with an office and place of business in Warrenville, Illinois and that it is engaged in the business of operating nuclear power generating stations in the State of Illinois, Exelon Generation denies the remaining allegations contained in paragraph II(a).

(b) In conducting its operations annually, Respondent derived gross revenues in excess of \$250,000.

ANSWER: Admitted.

(c) During the period of time described above in paragraph II(b), Respondent purchased and received for use at its Illinois facilities products, goods, and materials valued in excess of \$5,000 directly from points outside the State of Illinois.

ANSWER: Admitted.

(d) At all material times, the Respondent, has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

ANSWER: Admitted.

III

At all material times, the Charging Party has been a labor organization within the meaning of Section 2(5) of the Act.

ANSWER: Admitted.

IV

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Tony Cardenas	-	Manager - Employee and Labor Relations
Jim Meister	-	Vice President - Operations Support

ANSWER: Paragraph IV states legal conclusions for which no answer is required. Exelon Generation admits that at all material times Tony Cardenas has held the position of Manager/Employee and Labor Relations and Jim Meister has held the position of Vice President, Operations Support. Exelon Generation denies that these or any other individuals violated the Act as alleged in the Complaint.

V

(a) The following employees of Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

The bargaining unit as described in Article I of the Charging Party's collective-bargaining agreement with the Charging Party effective by its terms from October 1, 2007, to April 30, 2013.

ANSWER: Admitted.

(b) Since 1946 and at all material times, Respondent has recognized the Charging Party as the exclusive collective-bargaining representative of the Unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which was effective from October 1, 2007, to April 30, 2013.

ANSWER: Exelon Generation admits that at all material times it has recognized the Charging Party as the exclusive collective-bargaining representative of the unit described in paragraph V(a) above, that this recognition has been embodied in successive collective-bargaining agreements, and that the most recent of which was effective from October 1, 2007, to April 30, 2013, as subsequently extended.

(c) At all times since 1946, based on Section 9(a) of the Act, the Charging Party has been the exclusive collective-bargaining representative of the Unit.

ANSWER: Exelon Generation admits that at all material times, the Charging Party has been the exclusive collective-bargaining representative of the Unit.

VI

(a) About November 21, 2013, the Charging Party requested that Respondent bargain collectively about the effects of its decision to implement changes in the terms and conditions of employment that were implemented pursuant to a Nuclear Regulatory Commission (NRC) Confirmatory Order dated October 28, 2013.

ANSWER: Except to admit the existence of a Confirmatory Order issued by the Nuclear Regulatory Commission on or about October 28, 2013 and that agents of Exelon Generation met with agents of the Charging Party on November 21, 2013, Exelon Generation denies each and every allegation in this paragraph.

(b) Since about November 21, 2013, Respondent has failed and refused to bargain collectively with the Charging Party about the subject set forth above in paragraph VI(a).

ANSWER: Exelon Generation denies each and every allegation in this paragraph.

(c) The subject set forth above in paragraph VI(a) relates to the wages, hours, and other terms and conditions of employment of the Unit and is a mandatory subject for the purposes of collective bargaining.

ANSWER: Exelon Generation denies each and every allegation in this paragraph.

VII

(a) About the following dates, the Union requested, in writing, that Respondent furnish the Union with the following information:

- i. Within the last six months preceding the filing and service of the charge in Case 13-CA-132028 - Written notes and summaries from interviews conducted by certified abuse counselors or other service providers with Grievants prior to those counselors making their determination and treatment recommendations.
- ii. January 28, 2014 - Separately by year, the number of non-bargaining unit and bargaining unit employees since January 1, 2003, who were referred for evaluation for possible alcohol issues and the number of those employees who received a permanent alcohol abstinence letter.
- iii. January 28, 2014 - All communications to and from those who interviewed, evaluated, or otherwise had some sort of role relating to the assessment/evaluation and work related treatment recommendations of those employees referred for possible alcohol abuse since January 1, 2008.

- iv. March 18, 2014 - All documents related to a January 21, 1997, letter previously provided by employer from Patrick Laird to Grievant Robert Tate confirming the continuation of Tate's unescorted access within Respondent's facilities.
- v. March 18, 2014 - Readable copies of nine (9) documents the employer previously provided, consisting of an employee entrance checklist of Michael Jaborek, January 16, 1986, notes regarding an "Incident of Sexual Harassment", a December letter from Peter Karaba to Charles Reader, the Dresden accident report regarding Arthur Kleinfeldt, the June 6, 1998, handwritten notes regarding Arthur Kleinfeldt, the March 19, 2012, report from Connie Vaisvilas-Taylor regarding Dustin Keenan, the March 24, 2013, report from Connie Vaisvilas-Taylor regarding Charles Reader, the December 12, 2012, psychological assessment/SAE review form regarding Michael Jaborek, the June 28, 1993, report regarding four occurrences of Code 22 of Christopher Smith including attachments, and several missing "bates stamped" documents.
- vi. June 4, 2014 - The name and resume of the independent consultant used by Respondent, copies of everything provided to the consultant prior to receiving his or her recommendations, and all other notes, documents, reports provided by the independent consultant that were used by Respondent in its review of each Grievant's EAP file and in support of recommendations as to whether those Grievants were to maintain total alcohol abstinence.
- vii. August 12, 2014 - Request for the Respondent to provide the titles and job descriptions for seventeen (17) named individuals and their role in identifying alcohol abusers and alcohol dependent employees.
- viii. September 23, 2014 - Specific criteria applied and diagnostic documents, including assessment guides, used by the MRO and EAP to determine whether or how long to require an employee's abstinence from alcohol.

ANSWER: Exelon Generation denies the allegations in paragraph VII subsection (a)(i)-(viii) with qualification. This paragraph paraphrases select written requests for information made on the specified dates, but does not actually restate the requests verbatim. The language of the actual requests on these dates comprise the only requests at issue in this case.

(b) The information requested by the Union, as described above in paragraph VII(a)(i)-(viii) is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the Unit.

ANSWER: Exelon Generation denies each and every allegation in this paragraph.

(c) Since about the following dates, Respondent, has failed and refused to furnish the Union with the information requested by it as described above in paragraph VII(a)(i)-(viii).

- i. Within the last six months preceding the filing and service of the charge in Case 13-CA-132028.
- ii. February 27, 2014.
- iii. February 27, 2014.
- iv. June 6, 2014.
- v. June 25, 2014.
- vi. June 25, 2014.
- vii. September 19, 2014.
- viii. September 23, 2014.

ANSWER: Exelon Generation denies each and every allegation in this paragraph.

VIII

(a) By the conduct described in paragraphs VI and VII, Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(1) and (5) of the Act.

ANSWER: Exelon Generation denies each and every allegation in this paragraph.

(b) The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER: Exelon Generation denies each and every allegation in this paragraph.

DEFENSES

Without assuming any burden of proof, persuasion or production not otherwise legally assigned to it as to any element of the claims alleged in the Complaint, and without waiving the right to assert further defenses, Exelon Generation asserts the following defenses:

Defenses to Both Charges

1. The Complaint and each purported claim for relief stated therein fails to allege facts sufficient to state a claim upon which relief may be granted.
2. Some or all of the claims asserted in the Complaint are barred by the six month statute of limitations set forth in Section 10(b) of the NLRA, 29 U.S.C. § 160(b).
3. The Complaint fails to state a claim for which relief can be granted because the actions the Company has taken are mandated by regulations issued by the Nuclear Regulatory Commission (NRC).
4. The General Counsel's requested remedies are all improper because Exelon Generation's conduct as alleged in the Complaint does not violate the Act.

Defenses to Charge 13-CA-118294

5. The Complaint fails to state a claim for which relief can be granted because Exelon Generation did not make any changes in the terms and conditions of employment and/or any changes it did make to the employees' terms and conditions of employment, and any related effects, are not "material, substantial and significant." Therefore, no duty to engage in effects bargaining ever arose.
6. The Complaint fails to state a claim for which relief can be granted because the Charging Party did not demand to "bargain collectively about the effects of [Exelon Generation's] decision to implement [alleged] changes in the terms and conditions of employment that were implemented pursuant to a Nuclear Regulatory Commission (NRC) Confirmatory Order dated October 28, 2013," but rather demanded to bargain over the decision itself and over matters mandated by regulations issued by the NRC.

7. By the actions stated in the previous paragraph, the Charging Party waived any right to bargain over the effects of any changes to terms and conditions of employment made pursuant to the Confirmatory Order.

8. The Complaint fails to state a claim for which relief can be granted because the charge does not allege a failure to engage in effects bargaining.

9. The NLRB should defer action on the claims asserted in the Complaint because related issues are currently pending before the NRC at the instance of the Charging Party and the resolution of those issues may have a material impact on this matter.

Defenses to Charge 13-CA-132028

1. The Complaint fails to state a claim for which relief can be granted because the Charging Party's information requests sought information that was not in the possession or control of Exelon Generation, including information that Exelon Generation could not obtain from third party medical providers as a matter of law without a properly executed medical release from the employees in question, which the Charging Party failed and refused to furnish Exelon Generation. Moreover, the Charging Party could have obtained the requested medical information directly from medical providers because the Charging Party, unlike Exelon Generation, could obtain the necessary medical releases from the employees in question.

2. The Complaint fails to state a claim for which relief can be granted because the Charging Party's information requests sought information that is protected by the attorney-client privilege and work/product doctrines.

3. The Complaint fails to state a claim for which relief can be granted because the Charging Party's information requests sought irrelevant and unnecessary information, and are overbroad and unduly burdensome.

4. The Complaint fails to state a claim for which relief can be granted because the Charging Party failed to meet and confer in good faith with Exelon Generation about Exelon Generation's responses to information requests and offers to reach accommodations.

5. The Complaint fails to state a claim for which relief can be granted because the requested information was substantially provided and, accordingly, the violations, if any, are *de minimus*.

6. To the extent Exelon Generation furnished the Charging Party with the requested information, the Complaint is moot.

7. The Complaint fails to state a claim for which relief can be granted because the grievances that were the subject of the Charging Party's information requests were outside the scope of the grievance procedure in the parties' collective bargaining agreement and were also not substantively arbitrable because of overriding Nuclear Regulatory Commission regulations.

WHEREFORE, Exelon Generation prays that the Board dismiss the Complaint and award Exelon Generation its attorneys' fees and such other relief as may be just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned attorney of the Respondent, being duly sworn, say that on December 12, 2014, I served the foregoing **Answer to Consolidated Complaint** via U.S. First Class mail upon the following persons addressed to them at the following addresses:

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