

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of:)	
)	Docket Nos. 50-237-EA
EXELON GENERATION COMPANY, LLC)	50-249-EA
(Dresden Nuclear Power Station, Units 2 and 3))	
)	September 25, 2015
)	

COMMISSION NOTICE

To keep the Commission informed of relevant developments,¹ Exelon Generation Company, LLC (“Exelon”) hereby provides this Notice that, pursuant to the Settlement Agreement in National Labor Relations Board (“NLRB”) Case No. 13-CA-118294, Exelon has fulfilled its obligation to bargain with Local Union No. 15, International Brotherhood of Electrical Workers (“Local 15”), over the effects of Exelon’s decision to implement changes to the Behavioral Observation Program (“BOP”), SY-AA-103-513, Revision 10, to provide additional guidance to comply with the NRC’s 2013 Confirmatory Order.² Exelon’s Letter documenting the conclusion of bargaining is enclosed.³

¹ See *Exelon Generation Co., LLC* (Dresden Nuclear Power Station, Units 2 and 3), CLI-15-16, 81 NRC ___, slip op. at 4 n.11 (June 11, 2015).

² See Letter from C. Pederson, NRC Region III Administrator, to M. Pacilio, Exelon, “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” at 1 (Oct. 28, 2013), available at ADAMS Accession No. ML13298A144 (“Confirmatory Order”).

³ Letter from P. Brzozowski, Exelon, to D. Sergenti and B. Phillips, Local 15, “BOP – Response to your letter dated 9/15/15” (Sept. 23, 2015).

Consistent with the Confirmatory Order, as modified by the Staff,⁴ Exelon intends to implement the revised BOP no later than November 30, 2015.

Respectfully submitted,

Signed (electronically) by Raphael P. Kuyler

Timothy P. Matthews
Raphael P. Kuyler
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Phone: (202) 739-5527
Fax: (202) 739-3001
E-mail: tmatthews@morganlewis.com
E-mail: rkuyler@morganlewis.com

Tamra S. Domeyer
Associate General Counsel
Exelon Generation Company, LLC
4300 Winfield Road, 5th Floor
Warrenville, IL 60555
Phone: (630) 657-3753
Fax: (630) 657-4323
E-mail: tamra.domeyer@exeloncorp.com

*Counsel for Exelon Generation Company,
LLC*

Dated in Washington, DC
this 25th day of September, 2015

⁴ Letter from C. Pederson, Regional Administrator, NRC, to B. Hanson, Senior Vice President, Exelon Generation Company, LLC, and President and Chief Nuclear Officer, Exelon Nuclear, "Dresden Nuclear Power Station—Request for Relaxation of Confirmatory Order" (May 4, 2015), *available at* ADAMS Accession No. ML15125A103.



September 23, 2015

Mr. Dave Sergenti
Mr. Bill Phillips
IBEW Local 15
6330 Belmont Rd., Suite 1
Downers Grove, IL 60516

Re: BOP – Response to your letter dated 9/15/15

On behalf of Exelon Generation, I write in response to your letter dated September 15, 2015 regarding the parties' negotiations concerning changes to the BOP to comply with the NRC Confirmatory Order. We agree that the parties have bargained as required by the Settlement Agreement in NLRB Case No. 13-CA-118294. However, we do not agree that the last BOP draft dated 9/2/15 undid many of the agreed to changes. Further, we do not agree that the changes in the last draft constitute a unilateral change in the employees' terms and conditions of employment.

Per the Settlement Agreement, Exelon agreed to bargain with the Union over "any changes to any portion of the BOP, including but not limited to the additional guidance to employees concerning your reporting obligations that was adopted pursuant to the NRC Order...and which we intend to include in a revision to the BOP 10 to comply with the NRC Order." Throughout our negotiations, we have made it clear that we would *negotiate* over changes required to comply with the NRC Confirmatory Order. We further stated that although we were not obligated to do so, we would be willing to *discuss* any other input the Union had which fell outside the scope of our obligation to bargain (i.e., changes that were not required to comply with the NRC Order) with the goal of attempting to increase clarity and understanding of the BOP's requirements.

This distinction – that we were bargaining over the matters required by the Settlement Agreement, but merely discussing other issues relating to subjects the Company did not itself intend to change to comply with the NRC Order – shows that the claims in your letter are wrong. The example which you cite in the first paragraph of your letter relating to 3.2.2.4.A is an item that falls outside the scope of our bargaining responsibility. You requested that we change the language of Section 3.2.4.2.A of Rev 10 providing that employees must report "The violation of a company policy, an ethics concern and/or theft of company property." This language existed in Rev 9 of the BOP and the Company was not required and did not contemplate making changes to this language to comply with the NRC Order. Nevertheless, we have attempted to satisfy your request to discuss and change this language to more clearly identify violations of company policy that should be reported.

The other changes in the 9/2/15 draft which you allege we undid also are related to matters which fall outside the scope of our bargaining obligation. Additionally, as I told you during bargaining, the changes we discussed as to these matters would also require us to change other procedures (i.e., definition of "Legal Action", language related to management of work hours, etc.). As I told you during bargaining, the revision we presented on September 2, 2015 was solely intended to address the matters over which we were required to bargain under the Settlement Agreement and which were necessary to satisfy our immediate obligations under the NRC Order and subsequent order relaxing the NRC Order to allow for bargaining. I also told you prior to sending the September 2, 2015 document that the additional matters we agreed to discuss despite having no obligation to do so would be included in a future revision of the BOP after we received the necessary internal Company approvals to revise related policies.

Finally, the remaining "changes" in the 9/2/15 draft are minor or related to formatting and do not change the substance or meaning of the changes to which we bargained and agreed.

In short, the Company's 9/2/2015 draft presented changes to which the parties agreed in negotiations -- the agreed-upon changes regarding the matters over which we were obligated to bargain under the Settlement Agreement. The deletion of matters about which we were not required to bargain simply followed our statement to you during negotiations that those matters would be addressed in a future revision once necessary approvals were received. We did not refuse to implement those discussions, despite having no obligation to do so; we simply followed our statement that we would do so at a later time.

The time period for bargaining pursuant to the Settlement Agreement has expired. You have conceded that the Company has met its bargaining obligations under the Settlement Agreement, and you have stated that further negotiations would not be productive. Given these considerations, and the fact that the Company is obligated under the NRC's relaxation order to implement Rev. 10 on or before November 30, 2015, the Company intends to implement Rev. 10 incorporating the parties' agreed-upon revisions regarding the matters over which we were obliged to bargain.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip Brzozowski", with a long horizontal flourish extending to the right.

Philip Brzozowski
Senior Manager Employee & Labor Relations

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE COMMISSION

In the Matter of:)	
)	Docket Nos. 50-237-EA
EXELON GENERATION COMPANY, LLC)	50-249-EA
(Dresden Nuclear Power Station, Units 2 and 3))	
)	September 25, 2015

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305 (as revised), I certify that on this date, copies of Exelon's "Commission Notice" and its Enclosure were served upon the Electronic Information Exchange (the NRC's E-Filing System), in the above-captioned proceeding.

Signed (electronically) by Raphael P. Kuyler

Raphael P. Kuyler
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave. NW
Washington, DC 20004
Phone: (202) 739-5146
Fax: (202) 739-3001
E-mail: rkuyler@morganlewis.com