

January 12, 2016

MEMORANDUM TO: Marissa G. Bailey, Acting Director  
Division of Engineering  
Office of Nuclear Reactor Regulation

Anthony T. Gody, Jr, Director  
Division of Reactor Safety  
Region II Office

Adam S. Gendelman, Acting Deputy Director  
Reactor and Materials Rulemaking  
Office of the General Counsel

FROM: William M. Dean, Director */ra/*  
Office of Nuclear Reactor Regulation

SUBJECT CHARTER FOR BACKFIT REVIEW PANEL ON EXELON APPEAL OF  
BACKFIT AFFECTING BRAIDWOOD AND BYRON STATIONS  
REGARDING COMPLIANCE WITH 10 CFR 50.34(b), GDC 15, GDC 21,  
GDC 29, AND THE LICENSING BASIS

In a letter dated December 8, 2015, Exelon Generation Company, LLC (EGC) appealed the U.S. Nuclear Regulatory Commission (NRC) staff's (staff) imposition of a compliance backfit at the Braidwood and Byron Stations. The NRC action imposing the compliance backfit was set forth in an October 9, 2015, letter, which transmitted the results of a staff review of licensing basis documents for the Braidwood and Byron Stations. The staff determined that Braidwood and Byron Stations were not in compliance with General Design Criteria (GDC) 15, GDC 21, GDC 29, Title 10 of the Code of *Federal Regulations* (10 CFR) 50.34(b), and the plant-specific design bases. The staff acknowledged that the imposition was backfitting because the staff imposition differed from a previous staff position documented in a 2001 power uprate safety evaluation. However, the staff determined that the backfitting was justified under the compliance exception in 10 CFR 50.109(a)(4)(i). On December 8, 2015, the licensee appealed the staff's decision in a letter to the Director, Office of Nuclear Reactor Regulation, which stated that the compliance backfit exception is not applicable, and the NRC must conduct a backfit analysis.

The process by which the NRC will review and respond to the appeal is documented in Management Directive Handbook 8.4, "Management of Facility-Specific Backfitting and Information Collection," section III.A, "Facility-specific Backfits," as implemented by Office of

CONTACT: Alexander D. Garmoe, NRR/DPR  
301-415-3814

Nuclear Reactor Regulation Office Instruction LIC-202, Revision 2, "Procedures for Managing Plant-Specific Backfits and 50.54(f) Information Requests," section IV.A, "Non-Adjudicatory Appeal Process."

In accordance with section IV.A of LIC-202, and after consultation with your management, I am designating Marissa Bailey as Chairman of the Backfit Review Panel, and Anthony Gody and Adam Gendelman as members of the Backfit Review Panel. The purpose of the panel is to review EGC's appeal of the NRC staff's determination that a backfit is necessary at the Braidwood and Byron Stations, and the staff's application of the compliance backfit exception.

The panel is chartered with providing a recommendation to the Director, Office of Nuclear Reactor Regulation of whether a backfit is necessary at Braidwood and Byron and whether the staff's application of the compliance backfit exception is in accordance with § 50.109(a)(4)(i) and is otherwise appropriate. To arrive at its recommendation, the panel should review the October 9, 2015, backfit imposition letter and enclosed safety evaluation; the December 8, 2015, appeal to the Director, Office of Nuclear Reactor Regulation; and any relevant supporting information including the 2001 and 2004 safety evaluations referenced in the appeal. In conducting its review, the panel may also seek staff support.

The panel should complete its review and provide its recommendation to the Director, Office of Nuclear Reactor Regulation within 3 weeks following an associated public meeting with EGC, or by February 5, 2016, if a public meeting is declined by the licensee.

Nuclear Reactor Regulation Office Instruction LIC-202, Revision 2, "Procedures for Managing Plant-Specific Plant-Specific Backfits and 50.54(f) Information Requests," section IV.A, "Non-Adjudicatory Appeal Process."

In accordance with section IV.A of LIC-202, and after consultation with your management, I am designating Marissa Bailey as Chairman of the Backfit Review Panel, and Anthony Gody and Adam Gendelman as members of the Backfit Review Panel. The purpose of the panel is to review EGC's appeal of the NRC staff's determination that a backfit is necessary at the Braidwood and Byron Stations, and the staff's application of the compliance backfit exception.

The panel is chartered with providing a recommendation to the Director, Office of Nuclear Reactor Regulation of whether a backfit is necessary at Braidwood and Byron and whether the staff's application of the compliance backfit exception is in accordance with § 50.109(a)(4)(i) and is otherwise appropriate. To arrive at its recommendation, the panel should review the October 9, 2015, backfit imposition letter and enclosed safety evaluation; the December 8, 2015, appeal to the Director, Office of Nuclear Reactor Regulation; and any relevant supporting information including the 2001 and 2004 safety evaluations referenced in the appeal. In conducting its review, the panel may also seek staff support.

The panel should complete its review and provide its recommendation to the Director, Office of Nuclear Reactor Regulation within 3 weeks following an associated public meeting with EGC, or by February 5, 2016, if a public meeting is declined by the licensee.

**DISTRIBUTION:**

MBailey, NRR	MSpencer, OGC	RidsNrrDpr	RidsNrrOd
AGody, RII	LDudes, RII	RidsNrrPMByron	
AGendelman, OGC	RidsNrrPMBraidwood	AGarmoe, NRR	

**ADAMS Accession Nos.:** Package/ML15355A083; Acknowledgement of Appeal/ML15351A372  
Backfit Review Panel Charter/ML15355A081

\*via email

<b>OFFICE</b>	NRR/DPR/PGCB	NRR/DPR/PGCB:LA*	NRR/DPR/PGCB:BC*	NRR/DORL/PLBIII-2:BC*
<b>NAME</b>	AGarmoe	ELee	SStuchell	JPoole <b>(EBrown for)</b>
<b>DATE</b>	12/21/15	12/21/15	12/22/15	12/23/15
<b>OFFICE</b>	NRR/DORL:D*	OGC (NLO)*	NRR/DPR:DD	NRR/DPR:D
<b>NAME</b>	ABoland <b>(GWilson for)</b>	GMizun	AMohseni	LKokajko
<b>DATE</b>	12/23/15	12/23/15	12/23/15	12/23/15
<b>OFFICE</b>	NRR			
<b>NAME</b>	WDean			
<b>DATE</b>	01/12/16			