



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

April 27, 2016

Mr. Bryan C. Hanson
Senior Vice President
Exelon Generation Company, LLC
President and Chief Nuclear Officer (CNO)
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: EXELON GENERATION COMPANY, LLC – REQUESTS TO WITHHOLD
EMERGENCY PREPAREDNESS DOCUMENTS FROM PUBLIC DISCLOSURE
(CAC NOS. MF7504–MF7525)

Dear Mr. Hanson:

Effective December 15, 2015, the U.S. Nuclear Regulatory Commission (NRC) staff began proactively reviewing emergency preparedness (EP) and other documents for sensitive, unclassified, non-safeguards information (SUNSI), and, to the extent possible, making these documents publicly available. Prior to this, EP documents were only reviewed for release to the public upon request in accordance with the guidance in SECY-04-0191, "Withholding Sensitive Unclassified Information Concerning Nuclear Power Reactors from Public Disclosure," dated October 19, 2004 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML042310063). Licensees were informed of this process change in NRC Regulatory Issue Summary 2005-17, "Review and Submission of Updates to Final Safety Analysis Reports, Emergency Preparedness Documents, and Fire Protection Documents" (ADAMS Accession No. ML15321A440).

In 2014, Exelon Generation Company, LLC (Exelon) began marking its EP documents as proprietary and requesting that they be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 2.390, "Public inspections, exemptions, requests for withholding." However, consistent with SECY-04-0191, the NRC staff did not review these withholding requests at the time these documents were submitted since they were already being withheld. With the recent process change, the staff is reviewing Exelon's withholding requests for EP documents received since December 15, 2015.

The NRC staff has reviewed Exelon's affidavits and requests to withhold the EP documents listed in Enclosure 1. These documents were submitted by Exelon between December 15, 2015, and March 31, 2016. The affidavits request that the documents be withheld in their entirety. However, the affidavits do not provide sufficient information to justify withholding these documents from public disclosure.

The NRC staff's request for additional information (RAI) is provided in Enclosure 2. A response to the RAI, including any revised affidavits, is requested to be provided within 30 days from the date of this letter. If specific documents are no longer considered to be proprietary, then a statement to that effect is sufficient, and a response to the specific questions is not needed for

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those documents. Exelon should ensure that any resubmitted documents containing security-related information are appropriately marked.

If you have any questions, please contact me at 301-415-1380.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Purnell', written in a cursive style.

Blake Purnell, Project Manager
Plant Licensing Branch III-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. STN 50-456, STN 50-457, 72-73
STN 50-454, STN 50-455, 72-68, 50-317, 50-318,
72-8, 50-461, 50-10, 50-237, 50-249, 72-37,
50-373, 50-374, 72-70, 50-352, 50-353, 72-65,
50-220, 50-410, 72-1036, 50-219, 72-15, 50-171
50-277, 50-278, 72-29, 50-254, 50-265, 72-53, 50-244,
72-67, and 50-289

cc: Distribution via Listserv

LIST OF EMERGENCY PREPAREDNESS DOCUMENTS

REQUESTED TO BE WITHHELD BY

EXELON GENERATION COMPANY, LLC

Letter Date	Procedure Number	Procedure Title
12/15/15	EP-AA-112-F-01, Rev. G	Command and Control Turnover Briefing Form
12/21/15	EP-AA-1010, Rev. 11	Radiological Emergency Plan Annex for Oyster Creek Station
	EP-OC-1000, Rev. 0	Oyster Creek Emergency Plan
1/6/16	OP-NM-106-104, Rev. 0 (Security-Related)	Security Contingency Event
1/14/16	EP-AA-1007, Addendum 3, Rev. 2	Emergency Action Levels for Peach Bottom Atomic Power Station
1/26/16	EP-AA-112-100-F-50, Rev. D	Shift Emergency Director Checklist (CNG)
	EP-AA-112-100-F-51, Rev. C	Shift Communicator Checklist (CNG)
	EP-AA-112-100-F-54, Rev. B	Security Shift Supervisor Checklist (CNG)
	EP-AA-112-100-F-57, Rev. B	ERONS Notification Details (CNG)
	EP-AA-112-200-F-61, Rev. B	Security Coordinator Checklist (CNG)
	EP-AA-112-400-F-50, Rev. C	Corporate Emergency Director Checklist (CNG)
	EP-AA-112-400-F-54, Rev. C	EOF Logistics Manager (CNG)
	EP-AA-122-100-F-22, Rev. B	ERONS Activation for Call In and Drive In Drills
	EP-CE-114-100, Rev. 2	Emergency Notifications
	EP-CE-113-F-03, Rev. C	NMP Evacuation, Assembly and Accountability
	ERPIP-3.0, Rev. 05900 (Security-Related)	Immediate Actions
1/29/16	EP-AA-112-100-F-58, Rev. C	CR Operations Communicator Checklist (CNG)
	EP-AA-112-200-F-67, Rev. B	TSC Operations Communicator Checklist (CNG)
	EP-AA-112-300-F-57, Rev. C	OSC Operations Communicator Checklist (CNG)
2/11/16	EP-AA-1007, Addendum 3, Rev. 3	Emergency Action Levels for Peach Bottom Atomic Power Station
2/11/16	ERPIP-3.0, Rev. 05901 (Security-Related)	Immediate Actions
2/11/16	EP-AA-1005, Addendum 3, Rev. 1	Emergency Action Levels for LaSalle County Station
2/26/16	EP-AA-1011, Addendum 3, Rev. 1	Calvert Cliffs Nuclear Power Plant Emergency Action Levels
3/14/16	EP-AA-1001, Addendum 3, Rev. 1	Emergency Action Levels for Braidwood Station
3/14/16	EP-AA-1002, Addendum 3, Rev. 1	Emergency Action Levels for Byron Station
3/22/16	EP-AA-1013, Rev. 1	Exelon Nuclear Radiological Emergency Plan Annex for Nine Mile Point Station

Letter Date	Procedure Number	Procedure Title
3/23/16	EP-AA-1004, Addendum 3, Rev. 2	Emergency Action Levels for Dresden Station
3/28/16	EP-AA-1006, Addendum 3, Rev. 2	Emergency Action Levels for Quad Cities Station
3/28/16	EP-AA-1003, Addendum 3, Rev. 1	Emergency Action Levels for Clinton Station

REQUEST FOR ADDITIONAL INFORMATION

REQUESTS TO WITHHOLD

EMERGENCY PREPAREDNESS DOCUMENTS FROM PUBLIC DISCLOSURE

EXELON GENERATION COMPANY, LLC

Between December 15, 2015, and March 31, 2016, Exelon Generation Company, LLC (Exelon, EGC) submitted the emergency preparedness (EP) documents listed in Enclosure 1. Exelon claims these documents are proprietary and has requested that these documents be withheld, in their entirety, from public disclosure in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 2.390, "Public inspections, exemptions, requests for withholding."

BACKGROUND

In 2014, Exelon began marking its EP documents as proprietary and requesting that they be withheld from public disclosure pursuant to 10 CFR 2.390. Prior to this, EP documents submitted by Exelon and the previous owners of its licensed facilities were not requested to be withheld from public disclosure and were not marked as proprietary.

It appears that many of the EP documents claimed to be proprietary in Enclosure 1 are revisions, replacements, or contain substantially similar information to previously submitted non-proprietary EP documents. Some of this information is already public and other information could be made public upon request since a request for withholding was not made at the time the document was submitted.

For example, Exelon claims that the revised emergency action level procedures for a number of its facilities are proprietary. In addition, Exelon claims that the "Oyster Creek Emergency Plan" and the "Radiological Emergency Plan Annex for Oyster Creek Station" are proprietary. Previous versions of these procedures, submitted by Exelon on July 18, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML14311A643), were made public in response to a request under the Freedom of Information Act (FOIA). In addition, most of the information in these proprietary procedures was provided by Exelon in public documents dated May 30, 2014; March 2, 2015; and June 5, 2015, as part of a license amendment request to revise its emergency action level schemes for its fleet (ADAMS Accession Nos. ML14164A053, ML15071A122, and ML15159B025, respectively).

As another example, many of the revised Exelon procedures provided by letters dated January 26 and 29, 2016, were previously provided by letter dated February 21, 2014, for Calvert Cliffs. Although the February 21, 2014, submittal is not currently public, it could be made public upon request since there was no claim it contained proprietary information at the time it was submitted.

REGULATORY REQUIREMENTS

Section 2.390(b) of 10 CFR specifies the requirements for anyone submitting a document to the U.S. Nuclear Regulatory Commission (NRC) that desires to have the document withheld from public disclosure because it contains trade secrets, privileged, or confidential commercial or financial information.

Paragraph 10 CFR 2.390(b)(1) states that the submitter shall request withholding at the time the document is submitted and shall comply with the document marking and affidavit requirements set forth in this paragraph. The affidavit must include a specific statement of harm that would result if the information sought to be withheld is disclosed to the public. In addition, the affidavit must contain a full statement of the reason for claiming the information should be withheld from public disclosure. This statement must address with specificity the considerations listed in paragraph 10 CFR 2.390(b)(4).

Paragraph 10 CFR 2.390(b)(4) provides the criteria for the NRC staff to consider when making a determination as to whether the information sought to be withheld is (1) a trade secret or confidential or privileged commercial or financial information; and (2) If so, should be withheld from public disclosure. In accordance with 10 CFR 2.390(b)(4), the staff will consider the following:

- (i) Whether the information has been held in confidence by its owner;
- (ii) Whether the information is of a type customarily held in confidence by its owner and, except for voluntarily submitted information, whether there is a rational basis therefor;
- (iii) Whether the information was transmitted to and received by the Commission in confidence;
- (iv) Whether the information is available in public sources;
- (v) Whether public disclosure of the information sought to be withheld is likely to cause substantial harm to the competitive position of the owner of the information, taking into account the value of the information to the owner; the amount of effort or money, if any, expended by the owner in developing the information; and the ease or difficulty with which the information could be properly acquired or duplicated by others.

REQUEST FOR ADDITIONAL INFORMATION (RAI)

The NRC staff has reviewed Exelon's requests to withhold the documents listed in Enclosure 1. The staff has determined that the supporting affidavits do not adequately address the regulatory requirements in 10 CFR 2.390. Exelon is requested to provide the information below, including revised affidavits. If Exelon resubmits redacted versions of these documents, then the responses to the questions should focus on the redacted portions claimed to be proprietary.

RAI-1

Background

The affidavits request that the documents listed in Enclosure 1 be withheld in their entirety. A substantial amount of information in these documents is publicly available or could be made publicly available if nonproprietary versions are released.

Some of the documents listed in Enclosure 1 are also marked as containing security-related information. However, the information in the document is not portion marked to distinguish between the information claimed to be security-related and the information claimed to be proprietary. The NRC typically waves the affidavit requirement for security-related information; however, in this case, there are multiple reasons for requesting withholding, so the affidavit should cover each reason.

Request

Provide revised versions of the documents listed in Enclosure 1 which clearly identify (e.g., using portion marking) the locations of the following:

- A. Information which is public or that was previously submitted to the NRC as nonproprietary.
- B. Information which was shared with other licensees or industry groups.
- C. Security-related information.

For items A and B, include a cross-reference for each location to the appropriate documents listed in response to RAI-2.

RAI-2

Request

For each of the documents listed in Enclosure 1, provide a list of references that includes the following:

- A. All previous versions, including superseded documents, which were claimed to be proprietary when submitted to the NRC.
- B. The most recent version or superseded documents which were not claimed to be proprietary when submitted to the NRC.
- C. All current and previous versions (if any), including superseded documents, which were shared with other licensees or industry groups. Identify if any agreements regarding use or disclosure were made at the time the documents were shared.
- D. Any additional public or nonproprietary documents which are needed to address RAI-1.

The references should specify the letter date, the procedure numbers and titles, the applicable facilities, and whether or not the document is public. If the documents in Enclosure 1 supersede previously issued documents, then the references should clearly trace the previous documents to the current documents.

RAI-3

Background

The affidavits state that the documents requested to be withheld form part of the Exelon Nuclear Management Model (ENMM). The affidavits state:

The ENMM is a set of confidential policies and procedures that enable EGC to consistently achieve excellence in all key dimensions of its business. It documents proven ways of achieving excellence and defines how EGC executes and manages performance and assesses results. EGC expended significant resources, in terms of time and money, to develop, implement, and update the ENMM. EGC derives economic benefit from the ENMM in terms of increased efficiency and improved results as well as revenue generated from EGC's sale or licensing of the ENMM.

The affidavits further state:

Economic harm would come to EGC with the publication of the individual documents that form the ENMM, as it would reduce or eliminate the need for any third party to purchase or license the ENMM from EGC, and would reduce the competitive position of EGC based on the benefits that the ENMM provides to EGC in the management of its own nuclear plants. The ENMM is considered by EGC to be a very valuable part of our intellectual property and it would be very difficult, costly and time-consuming for another to duplicate it without access to these documents.

The statements in the affidavits are not sufficient to demonstrate that releasing the documents in Enclosure 1 is likely to cause substantial harm to the competitive position of Exelon. The affidavits focus on the overall value of the ENMM, but as stated in the affidavits, the documents requested to be withheld are only a part of the ENMM. In addition, the staff assumes that the entire set of EP documents which Exelon has submitted to the NRC would only comprise part of the ENMM.

All operating reactors currently have a similar set of EP documents to fulfill the NRC's emergency planning requirements. Similarly, other licensees are required to submit such documents to the NRC, but have not typically claimed that EP documents are proprietary. A substantial amount of EP information is publicly available and was developed based on NRC and industry guidance documents accessible to the entire industry. Many older nonproprietary versions of Exelon's documents are public or could be made available to other licensee's using a FOIA request.

Request

Explain how releasing the EP documents listed in Enclosure 1 would cause substantial harm to the competitive position of Exelon. The explanation should:

- A. Account for the concerns identified above;
- B. Describe the harm for releasing the specific documents listed in Enclosure 1;

- C. Describe the value of the specific documents listed in Enclosure 1;
- D. Describe the amount of effort or money expended by Exelon in developing the information; and
- E. Describe the ease or difficulty with which the information could be properly acquired or duplicated by others.

Compare this to the harm in releasing: (1) an entire set of Exelon's EP documents submitted to the NRC which are part of the ENMM, and (2) the ENMM in its entirety. This comparison should individually address each of the items above, except for item A.

RAI-4

Request

Enclosure 1 may not be a complete list of EP documents which Exelon claims to be proprietary that have been submitted to the NRC since December 15, 2015. In order to ensure an efficient review of the withholding requests for other EP documents already submitted, provide the following information:

- A. A complete list of EP documents claimed to be proprietary, not listed in Enclosure 1, which Exelon has submitted since December 15, 2015.
- B. Exelon's plans, including milestones, to supplement these additional documents to address the concerns in this RAI.

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those documents. Exelon should ensure that any resubmitted documents containing security-related information are appropriately marked.

If you have any questions, please contact me at 301-415-1380.

Sincerely,

/RA/

Blake Purnell, Project Manager
Plant Licensing Branch III-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

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RidsNMSSDsfmSFLB Resource	RidsNmssDuwpRdb Resource	JArce, NSIR
ZCruz, NMSS	JGoshen, NMSS	MNorris, NSIR

ADAMS Accession No. ML16098A322

OFFICE	NRR/LPL3-2/PM	NRR/LPL3-2/LA	NRR/LPL3-2/BC(A)	NRR/LPL3-2/PM
NAME	BPurnell	SRohrer	JPoole	BPurnell
DATE	4/14/16	4/18/16	4/27/16	4/27/16

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