



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

December 14, 2018

Mr. Bryan C. Hanson
Senior Vice President
Exelon Generation Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: OYSTER CREEK NUCLEAR GENERATING STATION – WITHDRAWAL OF ORDER EA-13-109, “ORDER MODIFYING LICENSES WITH REGARD TO RELIABLE HARDENED CONTAINMENT VENTS CAPABLE OF OPERATION UNDER SEVERE ACCIDENT CONDITIONS” (EPID L-2018-JLD-0004)

Dear Mr. Hanson:

By letter dated June 6, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13143A321), the U.S. Nuclear Regulatory Commission (NRC, the Commission) issued Order EA-13-109 to Exelon Generation Company, LLC (Exelon, the licensee). This order requires certain actions at Oyster Creek Nuclear Generating Station (Oyster Creek) associated with the Fukushima Near-Term Task Force recommendations. Specifically, Order EA-13-109 requires that all licensees that operate boiling-water reactors with Mark I and Mark II containment designs, including Oyster Creek, implement requirements for reliable hardened containment vents capable of operation under severe accident conditions at their facilities.

Section IV of Order EA-13-109 (the Order) required that Exelon submit to the Commission for review overall integrated plans by June 30, 2014 (Phase 1, wetwell vent), and December 31, 2015 (Phase 2, drywell vent), describing how Oyster Creek will achieve compliance with the requirements of the Order. The licensee responded to the Order by letter dated June 2, 2014 (ADAMS Accession No. ML14153A421). In this letter, Exelon requested an extension to comply with the requirements of Section IV of the Order concerning both Phase 1 and Phase 2 until January 31, 2020. By letters dated November 16, 2015, and June 20, 2017 (ADAMS Accession Nos. ML15092A159 and ML17144A175, respectively), the NRC relaxed the full implementation dates for Phases 1 and 2, respectively, until January 31, 2020. Exelon's extension request letter also stated that the licensee would request further relief from the Order no later than January 31, 2020, based on the permanently shutdown condition of the plant at that time. By letter dated April 12, 2018 (ADAMS Accession No. ML18102A027), Exelon requested that the Order be rescinded at Oyster Creek upon the docketing of the Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.82(a)(1) certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel. The licensee's letter dated April 12, 2018, also stated that the permanent shutdown of Oyster Creek was expected to occur no later than October 31, 2018.

Section IV of the Order also stipulates that the NRC's Director of the Office of Nuclear Reactor Regulation may, in writing, relax or rescind any of the conditions of the Order upon demonstration by the licensee of good cause.

By letter dated January 7, 2011 (ADAMS Accession No. ML110070507), Exelon submitted to the NRC a certification of permanent cessation of operations for Oyster Creek in accordance with 10 CFR 50.82(a)(1)(i). In this letter, Exelon provided notification to the NRC of its intent to permanently cease operations at Oyster Creek no later than December 31, 2019. By letter dated February 14, 2018 (ADAMS Accession No. ML18045A084), Exelon revised its estimate for permanent cessation of operations to no later than October 31, 2018. By letter dated September 25, 2018 (ADAMS Accession No. ML18268A258), Exelon certified to the NRC that it had permanently ceased operations at Oyster Creek on September 17, 2018. In this letter, the licensee also provided notification to the NRC under 10 CFR 50.82(a)(1)(ii) that, as of September 25, 2018, all fuel has been permanently removed from the Oyster Creek reactor vessel and placed in the spent fuel pool. Exelon stated that spent fuel was being stored in the spent fuel pool and the independent spent fuel storage installation. Further, Exelon confirmed its understanding that, under 10 CFR 50.82(a)(2), the Oyster Creek 10 CFR Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel.

The licensee's April 12, 2018, rescission request letter asserts that good cause exists to rescind the requirements of Order EA-13-109 with respect to Oyster Creek because, with the permanent removal of fuel from the reactor vessel, the function of primary containment has ceased. Additionally, according to the licensee, primary containment has no design function regarding protection of the fuel in the spent fuel pool, or mitigation of spent fuel pool accident scenarios. Therefore, the licensee states that implementation of the Order requirements will no longer have any nexus to reasonable assurance of adequate protection of the public health and safety.

The NRC staff notes that the function of primary containment, as described in 10 CFR Part 50, Appendix A, "General Design Criteria for Nuclear Power Plants," Criterion 16, "Containment design," and Chapter 3 of the Oyster Creek Updated Final Safety Analysis Report, is to establish an essentially leak-tight barrier against the uncontrolled release of radioactivity to the environment. Under Criterion 16, the reactor containment and associated systems are also to assure that the containment design conditions important to safety are not exceeded for as long as postulated accident conditions require. Because the licensee for Oyster Creek has permanently ceased power operations and removed all fuel from the reactor vessel, as documented in the docketed 10 CFR 50.82(a)(1)(i) and (ii) certifications, and, therefore, is no longer authorized to operate or to emplace or retain fuel into the reactor vessel under 10 CFR 50.82(a)(2), the NRC staff finds that a core damage event and a resulting severe accident are no longer possible at Oyster Creek due to the absence of a reactor core. As a result, the ability to operate the containment venting system would no longer serve the underlying purpose of Order EA-13-109.

Based on the above, the NRC staff concludes that the licensee has demonstrated good cause for the withdrawal of Order EA-13-109. Accordingly, the NRC is withdrawing its June 6, 2013, Order EA-13-109 with respect to Oyster Creek. All other regulatory requirements remain applicable and are not impacted by this withdrawal.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ho K. Nieh', written in a cursive style.

Ho K. Nieh, Director
Office of Nuclear Reactor Regulation

Docket No. 50-219

cc: Listserv

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***via email**

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DATE	10/19/2018	11/16/2018	12/14/2018

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