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

December 14, 2020

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

SUBJECT: NINE MILE POINT NUCLEAR STATION UNITS 1 AND 2 – EXEMPTION FROM ANNUAL FORCE-ON-FORCE EXERCISE REQUIREMENT OF 10 CFR PART 73, APPENDIX B, "GENERAL CRITERIA FOR SECURITY PERSONNEL," SUBSECTION VI.C.3.(I)(1) (EPID L-2020-LLE-0195 [COVID-19])

Dear Mr. Hanson:

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has approved the requested exemption from a specific requirement of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, Appendix B, Section VI, "Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties," for Nine Mile Point Nuclear Station, Units 1 and 2 (Nine Mile Point) for calendar year (CY) 2020. This action is in response to Exelon Generation Company, LLC's (the licensee) application dated November 13, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20318A288), that requested an exemption from 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1), regarding the annual force-on-force (FOF) exercises for CY 2020 at Nine Mile Point.

The requirements in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1), state, in part:

> Each member of each shift who is assigned duties and responsibilities required to implement the safeguards contingency plan and licensee protective strategy participates in at least . . . one (1) force-on-force exercise on an annual basis. Force-on-force exercises conducted to satisfy the NRC triennial evaluation requirement can be used to satisfy the annual force-on-force requirement for the personnel that participate in the capacity of the security response organization.

The purpose of the annual licensee-conducted FOF exercise is to ensure that the site security force maintains its contingency response readiness. Participation in these exercises also supports the requalification of security force members.

On January 31, 2020, the U.S. Department of Health and Human Services declared a Coronavirus Disease 2019 (COVID-19) public health emergency (PHE) for the United States. Subsequently, the Centers for Disease Control and Prevention (CDC) issued recommendations (e.g., social distancing, limiting assemblies) to limit the spread of COVID-19. On August 25, 2020 (ADAMS Accession No. ML20218A860), the NRC granted the licensee's previous request

for temporary exemption from 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(I)(1). That exemption is set to expire on December 31, 2020. As such, the licensee is required to conduct any missed annual licensee-conducted FOF exercises by December 31, 2020.

The licensee's application dated November 13, 2020, states the following:

- The Governor of the State of New York issued restrictions in response to the spread of the COVID-19 virus and imposed isolation and other limitations throughout the State. The COVID-19 PHE has not ended and continues to impact the licensee's ability to conduct annual FOF exercises at Nine Mile Point.

- Conducting the 2020 annual FOF exercise training as required by 10 CFR 73, Appendix B, Section VI, subsection C.3.(I)(1), would require the use of a significant number of additional staff (e.g., multiple shifts of staff and personnel from other sites, etc.) to support and effectively implement the annual training exercise for 2020. Holding the 2020 FOF exercise would locate drill participants and drill controllers in close quarters (e.g., bullet resistant enclosures, defensive fighting positions, Central Alarm Station, etc.), making it difficult and impractical to meet CDC recommendations regarding assembly practices and social distancing restrictions during this continuing COVID-19 PHE. Since many of the functions required to conduct the training exercise would place plant staff and other participants in close proximity to one another as noted, it could increase the likelihood of plant security personnel and other participants' exposure to the COVID-19 virus.

- Approval of this exemption will continue to support the isolation protocols necessary to protect essential site personnel. These restrictions are needed to ensure personnel are isolated from the COVID-19 virus and remain capable of maintaining plant security.

- Impacted security personnel continue to maintain proficiency with the knowledge, skills, and abilities required to effectively implement the protective strategy to protect the station against the design-basis threat as described in 10 CFR 73.1, "Purpose and scope," because Nine Mile Point has continued to conduct the following training requalification requirements of 10 CFR Part 73, Appendix B, Section VI:

    - Quarterly tactical response drills (Tabletop drills, Timeline drills, Limited scope tactical response drills)
    - Annual firearms familiarization
    - Annual daylight qualification course
    - Annual night fire qualification course
    - Annual tactical qualification course
    - On-the-job training
    - Annual physical examination
    - Annual physical fitness test
    - Weapons range activity (4-month periodicity)
    - Annual written exam
    - Annual thermal sight qualification course
    - Controller training
    - Less than lethal force training
    - Annual protective mask training

- Nine Mile Point has also conducted quarterly tabletops along with a review of FOF lessons learned in order to maintain proficiency during the COVID-19 pandemic. The 2020 quarterly tabletops were completed on February 15, May 15, and August 15, and fourth quarter tabletops are in progress. A review of lessons learned from FOF exercises was conducted, which included 2019 annual exercises and 2017 NRC Observed Force-on Force Exercises. The lesson learned review was completed on September 25, 2020. Nine Mile Point completed an NRC 71130.07 inspection on July 17, 2020, and an IP 92707 inspection was conducted on October 26, 2020, through October 29, 2020, with NRC exit pending.

- In addition, Nine Mile Point has conducted the following training activities:

    - Limited Scope Tactical Response Drills for Defensive Strategy Optimization project, (completed January 7, 2020)
    - IP 92707 ramp-up limited scope drill training (completed October 23, 2020)
    - Site Specific Target Set training during 3rd Trimester In-Service (Ongoing)

This exemption is specific to CY 2020 and Nine Mile Point security personnel who have previously demonstrated proficiency and are currently qualified in accordance with the requirements of 10 CFR Part 73, Appendix B, Section VI. The licensee stated that:

> Because of the rigorous nature of nuclear Security personnel training programs, which consist of regularly scheduled training activities to include weapons training, limited scope tactical response drills, and demonstrated acceptable performance of day-to-day job activities (e.g., detection and assessment, patrols, searches, and defensive operations) . . . , it is reasonable to conclude that Security personnel will continue to maintain their proficiency even though the 2020 annual FOF exercise is not conducted for the exemption being requested.

Additionally, the licensee identified the site-specific actions listed above that will continue to occur at Nine Mile Point to maintain contingency response readiness, consistent with the NRC's October 13, 2020, letter (ADAMS Accession No. ML20273A117).

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 that is authorized by law. The NRC staff has reviewed the exemption request and finds that granting the proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws. Therefore, the NRC staff finds that the exemption is authorized by law.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption will not endanger life or property or the common defense and security. This exemption will only apply to licensee security personnel who are already satisfactorily qualified on the security requirements in 10 CFR Part 73, Appendix B, Section VI. Based on this fact, and its review of the controls that the licensee continues to implement to ensure contingency response readiness for the duration of the exemption, including continuing to conduct quarterly tactical response drills and other security requalification requirements, the NRC staff has reasonable assurance that the security force at Nine Mile Point will maintain its

proficiency and readiness to implement the licensee's protective strategy and adequately protect the site. Therefore, the NRC staff concludes that the proposed exemption would not endanger life or property or the common defense and security.

In accordance with 10 CFR 73.5, the Commission may grant an exemption from the regulations in 10 CFR Part 73 when the exemption is in the public interest. The NRC staff finds that the exemption from the annual FOF exercise requirement in 10 CFR Part 73, Appendix B, Section VI, subsection C.3.(l)(1), for CY 2020 would facilitate the licensee's efforts to maintain a healthy workforce capable of operating the plant safely and implementing the site's protective strategy by isolating security personnel from potential exposure to the COVID-19 virus. The NRC staff concludes that granting the exemption for CY 2020 is in the public interest because it allows the licensee to maintain the required security posture at Nine Mile Point, while enabling the facility to continue to provide electrical power to the Nation.

Environmental Considerations

NRC approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25), and there are no special circumstances present that would preclude reliance on this exclusion. The NRC staff determined, per 10 CFR 51.22(c)(25)(vi)(E), that the requirements from which this exemption is sought involve education, training, experience, qualification, requalification, or other employment suitability requirements. The NRC staff also determined that approval of this exemption request involves no significant hazards consideration because it does not authorize any physical changes to the facility or any of its safety systems, nor does it change any of the assumptions or limits used in the facility licensee's safety analyses or introduce any new failure modes. There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite because this exemption does not affect any effluent release limits as provided in the facility licensee's technical specifications or by the regulations in 10 CFR Part 20, "Standards for Protection Against Radiation." There is no significant increase in individual or cumulative public or occupational radiation exposure because this exemption does not affect limits on the release of any radioactive material, or the limits provided in 10 CFR Part 20 for radiation exposure to workers or members of the public. There is no significant construction impact because this exemption does not involve any changes to a construction permit; and no significant increase in the potential for or consequences from radiological accidents because this exemption does not alter any of the assumptions or limits in the facility licensee's safety analysis. In addition, the NRC staff determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

Conclusions

Accordingly, the NRC has determined that pursuant to 10 CFR 73.5, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC hereby grants the licensee's request to exempt Nine Mile Point from the annual FOF exercise requalification requirement of security personnel in subsection C.3.(l)(1) of 10 CFR Part 73, Appendix B, Section VI. This exemption applies only to those FOF exercises required during CY 2020.

If you have any questions, please contact the Nine Mile Point project manager, Michael L. Marshall, Jr., at (301) 415-2871 or by e-mail to Michael.Marshall@nrc.gov.

Sincerely,

Craig G. Erlanger

Digitally signed by Craig G. Erlanger
Date: 2020.12.14 14:06:31 -05'00'

Craig G. Erlanger, Director
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-220 and 50-410

cc: Listserv

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ADAMS Accession No.: ML20321A290

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