

# PUBLIC SUBMISSION

<b>As of:</b> 6/24/21 7:59 AM
<b>Received:</b> June 23, 2021
<b>Status:</b> Pending_Post
<b>Tracking No.</b> kqa-280d-mbci
<b>Comments Due:</b> June 23, 2021
<b>Submission Type:</b> Web

**Docket:** NRC-2021-0099

Associated Independent Spent Fuel Storage Installations; Consideration of Approval of Transfer of Licenses and Conforming Amendments

**Comment On:** NRC-2021-0099-0001

Exelon Corporation; Exelon FitzPatrick, LLC; Nine Mile Point Nuclear Station, LLC (NMP LLC); R. E. Ginna Nuclear Power Plant, LLC (Ginna LLC); and Calvert Cliffs Nuclear Power Plant, LLC (Calvert LLC); and the Associated Independent Spent Fuel Storage Installations; Consideration of Approval of Transfer of Licenses and Conforming Amendments; Public Comment Period Extended

**Document:** NRC-2021-0099-DRAFT-0003

Comment on FR Doc # 2021-09218

---

## Submitter Information

**Email:** warrenba@msn.com

**Organization:** Citizens' Environmental Coalition & Promoting Health and Sustainable Energy (PHASE)

---

## General Comment

See attached file(s)

---

## Attachments

Final NRC LTR re Exelon restructuring

**Citizens' Environmental Coalition**  
**Promoting Health and Sustainable Energy (PHASE)**

June 23, 2021

Submitted via

[www.regulations.gov](http://www.regulations.gov)

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

ATTN: Docket ID NRC-2021-0099, Rulemakings and Adjudications Staff  
Re: Exelon License Transfers

Dear Secretary,

This proceeding relates to the *Application for Order Approving License Transfers and Proposed Conforming License Amendments* filed by Exelon Generation Company, LLC (“ExGen”) on behalf of itself and other Applicants on February 25, 2021 (“Application”). Exelon Corporation then plans to transfer its 100% ownership of ExGen to a newly created subsidiary that will then be spun off to Exelon Corporation shareholders as a publicly traded entity, becoming ExGen’s new parent company (“SpinCo”). In the future Exelon Generation Company, its subsidiaries and the new SpinCo will not be affiliated or receive any financial support from Exelon Corporation after the Spin Transaction.

Our interests are naturally focused on the relevant impacts for NYS. After the closing of the Indian Point nuclear facility, there are four aging upstate nuclear reactors. NY State will definitely be impacted by how the NRC pursues due diligence in its review of the complex matters associated with corporate and financial responsibilities associated with the operation of these nuclear reactors and their independent spent fuel storage facilities. There is a separate proceeding at the NY Public Service Commission currently.

**I Petitioners are asking NRC to rule on a corporate reorganization proposal by Exelon applicants which contains inadequate details about the plans and whether the results of the reorganization will ensure there are viable financial and responsible entities able to carry out the appropriate administration of NY's four upstate nuclear reactors.**

**We believe there is inadequate information for NRC to make this decision. Therefore NRC should decline to proceed until a more complete record is put before it, which answers all fundamental questions regarding the future ability of new corporate entities to fulfill all essential requirements.**

**II EDF, Inc. claims it was not consulted, or provided with pertinent information and that its consent is needed for the proposed Spin Transaction and other proposed arrangements associated with the Exelon & ExGen proposal.**

EDF Inc. has a significant interest in this matter because it has a 49.99% interest in Constellation Energy Nuclear Group, CENG, which owns four nuclear reactors. Ex Gen owns 50.01 % of CENG. CENG indirectly owns Nine Mile Point One & Two, Ginna and Calvert Cliffs nuclear plants. ExGen is also the licensed operator for these plants. On April 1, 2014 ExGen, EDF Inc., and CENG, provided EDF Inc. with the ability to sell, transfer, and convey its 49.99% membership interest in CENG to ExGen based on certain terms and conditions in a Put Agreement. This transaction has not been finalized and may not be completed prior to Exelon's transfer of 100% ownership of ExGen to a new parent company.

EDF contends that the Spin transaction would harm EDF and potentially reduce financial support for nuclear operations and decommissioning.

**III It is our position that far too little information has been made available thus far to allow the petitioners to proceed to form an entity with unknown technical expertise to manage complex, aging and potentially dangerous nuclear reactors with questionable financial resources.**

**IV Exelon and EDF, acting separately, have disclosed the harsh truth about Nuclear Power. They are reducing their ownership interests and future involvement with nuclear reactors.**

**Despite massive subsidies in a variety of forms for approximately 70 years, nuclear power cannot stand on its own economically.**

**Nuclear Reactors cannot stand alone in the absence of substantial taxpayer subsidies. Taxpayers can no longer sustain this failing industry.**

Exelon is getting rid of a significant portion of its business. If Exelon gains approval for its plan, Exelon Generation Company, its subsidiaries and the new SpinCo will not be affiliated or receive any financial support from Exelon Corporation after the Spin Transaction. In addition EDF plans to sell its 49.99 % interest in CENG in the near future in a Put transaction.

This overall situation has been expected for some time with Wall Street frowning on the economics of nuclear, despite extraordinary government subsidies that ensured economic gains for investors, while assigning the risks to the public.

## **V Selling the Public on Nuclear Power**

“Atoms for Peace” was launched by President Eisenhower in the 1950s as a way of balancing nuclear warfare with a domestic use for nuclear power. The public was promised “electricity too cheap to meter” – but this promise was never realized. Nuclear waste was also said to be an easy problem to solve, so it was given no attention. It now looms as an onerous financial liability and long-lived major threat to our nation.

From the beginning, government subsidies have been directed to every portion of the nuclear fuel cycle with 4 main goals:

- Reducing the cost of capital, labor and land
- Masking the true cost of producing nuclear energy
- **Shifting the security and accident risks to the public**
- **Shifting long-term operating risks (decommissioning & waste management) to the public**<sup>1</sup>

The public has born the burden of decades of massive subsidies for nuclear, via increased taxes, lost Treasury revenues, higher electric bills and enormous lost

---

<sup>1</sup> Koplou, Doug, **Nuclear Power: Still Not Viable without Subsidies**, Union of Concerned Scientists, Feb. 2011.

opportunity costs. Substantial non-monetary health and safety risks imposed upon the public have received negligible attention and have not received the necessary budget allocations to ensure public safety. Populations near uranium mining sites, milling and enrichment facilities, nuclear reactors, and nuclear waste sites are on the receiving end of chronic radioactive and toxic chemical exposures. As the NRC has acknowledged, virtually every commercial reactor site in the nation has experienced unplanned radioactive effluent leaks with many having gone on for years before discovery. Now states with large minority populations are targeted as sites for consolidated interim storage since no geological repository is even in planning stages. Planned transport of spent nuclear fuel will travel along rail and interstate systems proximate to low income and minority communities whose residents will be chronically exposed to radiation in addition to facing potential accident risks. Workers and these same communities have already been exposed to extensive uranium mining and legacy sites not cleaned up and restored.

**Waste Legacy Costs borne by the public.** Today more nuclear reactors are undergoing decommissioning and whether funds are sufficient for a complete cleanup is of increasing concern for the public. The long timeline for decay of many lethal radionuclides means commercial nuclear activity results in the need to sequester the industry's waste byproduct from the environment for many thousands of years. Health impacts will cross multiple generations – creating an intergenerational injustice which has been wholly disregarded by regulators. Careless radioactive waste handling today will harm many future generations, leaving a legacy of cancer, birth defects, developmental disabilities, and other illnesses. Pregnant women, infants and children, are especially vulnerable to the effects of radioactivity – and their excess vulnerability is disregarded by the present regulatory scheme. In recent years, the NRC and Department of Energy (DOE), which oversees the nation's legacy of military nuclear waste, have engaged in a *defacto* dismantling of the nation's already inadequate regulatory protection framework. This has been done through excessive issuance of exemptions, rubberstamping of license applications, adoption of rule changes and guidances promulgated by industry trade associations, with rationales of "efficiency". Among these activities was the attempt to deregulate oversight over so-called "low-level" nuclear waste through a rule "reinterpretation" which would have allowed radioactive waste to go into regular landfills and municipal dumps – most of which are, of course, situated in environmental justice communities. Aside from the impacts on the residents of neighborhoods which host such sites, this proposal would have placed vital groundwater and source waters at risk of permanent contamination. There was no public interest to be advanced by such a rule 'reinterpretation'. The only

interest served would have been that of nuclear licensees like Exelon, who could save a great deal of money by not having to pay for proper disposal of nuclear waste.

Notably, neither the NRC nor the DOE pay attention to the cumulative impacts of radioactive emissions and effluents which flow from the wide array of sites associated with the uranium fuel cycle. The regulatory scheme focuses on each site as if they were and will always be in compliance with regulations, as if regulations were fully protective, and as if each site exists in a vacuum. There is nil consideration of legacy leaks, legacy waste, or the risk of future releases. And, of course, the “benefit-cost” analyses focus almost wholly on the expense to industry while ignoring the enormous and perpetual health costs borne by the public.

This is also true at many early nuclear waste sites where few protections were put in place. Such legacy waste can impact public spaces and drinking water supplies. The long timeline for decay of some radionuclides means many generations will require adequate protection for many thousands of years. Health impacts across multiple generations are an intergenerational injustice, where careless radioactive waste handling today can harm many future generations in the future, leaving a legacy of cancer, birth defects and illness.

The General Accounting Office has identified nuclear wastes as a high risk for the entire nation due to the growth of environmental liabilities.<sup>2</sup> Environmental monetary liabilities in 2018 (\$377 billion) exceeded funding for actual site cleanups (\$46.8 billion) by eight times. Inadequate funding for the Dept. of Energy to cleanup sites and isolate dangerous radionuclides means that we are allowing the transfer of nuclear wastes into a future public health problem.

Today we have few waste solutions. We have no plans for a repository and it is clear from the budget allocations alone that we are not adequately managing our waste problems. Some notorious wastes sites have been worked on for decades with no reasonable completion dates in sight, like Hanford and Savannah River. Many threaten nearby communities or water supplies.

Government subsidies have not stabilized the nuclear industry. It is failing. Unfortunately today government agencies are coming up with new creative forms of regulatory relief that also serve as subsidies for the nuclear industry.

---

<sup>2</sup> DOE- Program-Wide Strategy and Better Reporting Needed to Address Growing Environmental Cleanup Liability, GAO 19-29 report, January 2019, <https://www.gao.gov/assets/700/696632.pdf>

## **VI Creative Regulatory Relief for the industry involves deregulation.**

Some examples:

- Spent fuel pools were allowed to increase the density of spent fuel by 5-6 times beyond their original design specifications, delaying movement to dry storage and increasing potential catastrophic risks.
- Additional safety standards for these spent fuel pools were recommended following the Fukushima disaster by the National Academy of Sciences, but NRC rejected most of the recommendations.
- High Level Waste regulations were relaxed—reducing former applicable regulations.
- Greater than Class C waste was proposed for reduced regulation, thus no longer needing a repository. No final decision has been made yet (status not certain).
- High Burnup Fuel needed more comprehensive research according to the US Nuclear Waste Technical Review Board. Rather than arrange the research, NRC has moved forward with higher burnups and enrichment up to 20%. The Commission also failed to require monitoring of the accumulation of oxides and hydrides on fuel rods, to ensure that emergency core cooling will not be impacted.
- Remote handling facilities to transfer leaking containers of spent nuclear fuel were adopted by NRC as requirements in 2014, but abandoned for planned Consolidated Interim Storage Facilities. At the closed Oyster Creek reactor, rather than having replacement containment available, the current plan is to dig a pit to put a leaking canister in. Notably this alone will not contain radioactivity.
- Extending reactor licenses far beyond their original design life to 80 or 100 years is another new plan being implemented in the absence of adequate scientific and environmental review. Coupled with this there will be no testing of metal samples in the reactor core to ensure the pressure vessel will not experience sudden shattering during emergency cooling.

Note: This is not intended to be a complete list. To our knowledge no federal agency has estimated the value of these deregulatory subsidies for this industry.

Exelon has been among the primary beneficiaries of subsidies. While we have focused here on the federal largess bestowed on the nuclear industry as a whole, especially via lax regulation and disregard of externalities, Exelon has repeatedly sought and receive corporate welfare from state ratepayers. In 2016, after acquiring the natural gas distribution assets of Pepco Holding, Exelon succeeded in getting \$7.6 billion diverted from New York state support for renewables and efficiency to prop up its aging upstate New York reactors. Immediately after that, Exelon went after and received subsidies from Illinois ratepayers – from whom the corporation through its ComEd subsidiary is currently seeking even more subsidies. The restructuring effort in which the multibillion conglomerate is now embarked has the strong whiff of a further effort at self-enrichment at the expense of the public. The NRC has an obligation to ensure the public is not left to shoulder even more liability and risk than it already bears.

## **VII Our Recommendations**

First, we recommend that NRC refuse to act on the petition because of the limited information provided and instead require that the petitioners address all the deficiencies.

Second, we urge NRC to conduct a thorough review of all the deregulatory policies and actions adopted in the last 4 years in order to fully understand the potential adverse environmental, safety, security risks, and health implications.

Thank you for your attention.

Respectfully,



Barbara J. Warren RN, MS  
Executive Director  
Citizens' Environmental Coalition  
422 Oakland Valley Rd.  
Cuddebackville, NY 12729  
845-754-7951  
[warrenba@msn.com](mailto:warrenba@msn.com)



Michele Lee Council  
Senior Analyst  
Promoting Health and Sustainable Energy (PHASE)  
75 North Middletown Road  
Nanuet, NY 10954  
[lee2councilenergy@gmail.com](mailto:lee2councilenergy@gmail.com)