



OFFICE OF THE
GENERAL COUNSEL

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

August 24, 2022

BY FIRST-CLASS AND ELECTRONIC MAIL

Stephani L. Ayers, Esq.
P.O. Box 1061
Medford, OH 97501
stephani@whistleblowerdefenders.com

Re: *Magnuson v. Exelon Corp.*,
No. 1:21-cv-04142
TR-22-02

Dear Counsel:

We are in receipt of a subpoena issued by your firm to the U.S. Nuclear Regulatory Commission. This office has assigned the processing number of "TR-22-02" to your request. Please refer to that number in all future communications regarding this matter. We cannot comply with the subpoena for several reasons.

First, although the subpoena calls for the production of documents on or before August 15, 2022, it was addressed to the "Records Custodian," and my office only received the subpoena yesterday.

Second, your subpoena is a demand for information under 10 C.F.R. § 9.200. See *generally United States ex rel Touhy v. Ragen*, 340 U.S. 462 (1951). Such requests must be approved by the General Counsel for a decision. *Id.* § 9.201(a). However, you have not complied with the requirements of 10 C.F.R. § 9.202. To satisfy that provision, you should submit an affidavit containing the following information: (1) the nature of the information sought; (2) the issues in dispute in the case; (3) the relevance of the information sought to the issues in dispute in the case; and (4) why that information is not available elsewhere.

We are willing to work cooperatively with you to provide materials that are relevant to the above-referenced case, provide that such production comports with applicable laws and privileges. We will treat any submission under Section 9.202 as confidential to the extent allowed by law; thus, we expect any submission to provide significant detail in response to the questions raised. Moreover, please note that you will be charged fees for the processing of this request if the agency expends more than 50 hours of work in response to it. 10 C.F.R. § 9.201(b).

S. Ayers, Esq.

Please feel free to contact me by e-mail or at (301) 415-1956 should you have any questions.

Sincerely,

Andrew P. Averbach
Solicitor

cc: Tracey Stokes, Deputy Asst. General Counsel
Margie Janney, Agency Records Officer