

July 16, 2003

Mr. John L. Skolds
President and CNO
Exelon Nuclear
Exelon Generation Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: PEACH BOTTOM ATOMIC POWER STATION
NRC OFFICE OF INVESTIGATIONS CASE NO. 1-2003-002

Dear Mr. Skolds:

On January 3, 2003, the NRC's Office of Investigations (OI) initiated an investigation to determine if a reactor operator (RO) at Peach Bottom, or the facility licensee (Exelon Nuclear), deliberately violated a September 13, 2001, NRC operator's License Amendment Restriction. This amendment required the NRC to be notified of, and to be in agreement with, the acceptable medical status of an RO prior to the RO returning to licensed operator duties. Based on the evidence developed during the investigation, the NRC has concluded that the RO and Exelon Nuclear violated the NRC's license amendment requirement because the RO returned to licensed duties between April 2002 and December 2002, without notifying the NRC or receiving agreement from the NRC that the RO was medically fit to return to control room duties. However, the NRC did not conclude that the RO or Exelon Nuclear deliberately violated the amendment. The synopsis from OI Case No. 1-2003-002 is enclosed.

After careful consideration of the information developed during the investigation, the NRC has concluded that a violation of NRC requirements occurred. Specifically, 10 CFR 55.53(f) requires, in part, that before resumption of functions authorized by a license issued under this part, an authorized representative of the facility licensee shall certify that the qualifications and status of the licensee are current and valid. Contrary to this requirement, on April 24, 2002, Exelon Nuclear reactivated an RO to perform control room duties in violation of his license, which restricted him from performing control room duties, without first notifying the NRC and having the NRC in agreement with his medical condition.

In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, which is available on the NRC's website at <http://www.nrc.gov/what-we-do/regulatory/enforcement.html>, the NRC has classified the violation at Severity Level IV due to its very low safety significance because the NRC, based on a review by its reviewing physician, subsequently determined that it was acceptable for the RO to return to licensed duties. In addition, because compliance was restored and the violation was entered into your corrective action program, the NRC is treating it as a non-cited violation, consistent with Section VI.A of the NRC's Enforcement Policy. If you contest this non-cited violation, you should provide a response within 30 days of the date of this letter, with the basis for your denial, to the Nuclear Regulatory Commission, ATTN.: Document Control Desk,

Mr. J. L. Skolds

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Washington, D.C. 20555-0001; with copies to the Regional Administrator Region I; the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, D.C. 20555-0001; and the NRC Resident Inspector at the Peach Bottom Atomic Power Station.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room (PDR) or from the Publicly Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Questions concerning this matter may be addressed to Mr. Richard Crlenjak, Deputy Director, Division of Reactor Safety, at 610-337-5128. We appreciate your prompt and comprehensive actions in this matter.

Sincerely,

/RA/ Richard V. Crlenjak Acting For

Wayne D. Lanning, Director
Division of Reactor Safety

Docket Nos. 50-277; 50-278
License No. DPR-44, DPR-56

Enclosure: Synopsis of NRC Investigation 1-2003-002

cc w/encl:

Senior Vice President, Mid-Atlantic Regional Operating Group
President and CNO, Exelon Generation Company, LLC
Senior Vice President, Operations Support
Vice President, Mid-Atlantic Operations Support
Senior Vice President, Nuclear Services
Site Vice President, Peach Bottom Atomic Power Station
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R. Fletcher, Department of Environment, Radiological Health Program
J. Johnsrud, National Energy Committee, Sierra Club
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P. Cote, Acting Regional Director, FEMA Region III (EP Exercise/IRs Only)

Mr. J. L. Skolds

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SYNOPSIS

This investigation was initiated by the U. S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I, on January 3, 2003, to determine if a reactor operator (RO), Peach Bottom Atomic Power Station (PB), Delta, PA, or the facility licensee, Exelon Nuclear, deliberately violated a September 13, 2001, NRC Operator's License Amendment Restriction (amendment) which required that the NRC be notified of and in agreement with the RO's acceptable medical status prior to performing control room duties. Specifically, an RO performed control room duties between April 24 and December 18, 2002, in spite of the NRC amendment which restricted him/her from doing so without first notifying and having the NRC in agreement with the RO's acceptable medical status.

Based on evidence developed during this investigation, OI concludes that the RO and Exelon Nuclear did violate the NRC's amendment's requirements because the RO returned to licensed duties from April to December 2002, without notifying the NRC, and the NRC was not in agreement with the RO's acceptable medical status, prior to performing control room duties. However, OI did not substantiate that the RO did so knowing that his/her actions to resume control room duties violated NRC requirements, or that the facility licensee deliberately allowed the RO's return to control room duties knowing that it was contrary to the amendment.