

October 7, 2005 (9:00am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**BEFORE THE UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

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**Supplemental Filing of  
Eric Joseph Epstein's, *Pro se*,  
Request for a Public Hearing on  
the Application for Approval of the  
Indirect License Transfer of  
Three Mile Island Nuclear Station, Unit 1  
Facility Operating License No. DPR-50;  
NRC Docket No. 50-289**

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**Supplemental Filing of  
Eric Joseph Epstein's, *Pro se*, Request  
for a Public Hearing on the Applications for  
Approval of the Direct License and Indirect License  
Transfers of Facility Operating Licenses and Conforming  
Amendments of Exelon Generation Company, LLC  
and PSEG Nuclear LLC, at  
Peach Bottom Atomic Power Station, Units 2 and 3;  
[Docket Nos. 50-277 and 50-278]  
(ML050670664)**

Dated: October 7, 2005

Secretary of the U.S. Nuclear Regulatory Commission  
U.S. Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, DC 20555-0001

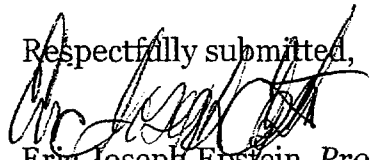
Dear Secretary:

Enclosed please find an original and two (2) copies for filing of the "Supplemental Filing of Eric Joseph Epstein's, *Pro se*, Request for a Public Hearing on the Application for Approval of the Indirect License Transfer of Three Mile Island Nuclear Station, Unit 1 Facility Operating License No. DPR-50 NRC Docket No . 50-289" pursuant to 52 Pa. Code S 5.71, to intervene under the 10 CFR NRC, Section 50: 80 **§ 2.309**.

Also, enclosed please find an original and two (2) copies for filing of the "Supplemental Filing of Eric Joseph Epstein's, *Pro se*, Request for a Public Hearing on the Applications for Approval of the Direct License and Indirect License Transfers of Facility Operating Licenses and Conforming Amendments of Exelon Generation Company, LLC and PSEG Nuclear LLC, at Peach Bottom Atomic Power Station, Units 2 and 3; [Docket Nos. 50-277 and 50-278]" to intervene under the 10 CFR NRC, Section 50: 80 **§ 2.309**.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Respectfully submitted,



Eric Joseph Epstein, *Pro se*  
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[ericepstein@comcast.net](mailto:ericepstein@comcast.net)

DATED: October 7, 2005

## I. Background

On August 15, 2005 Eric Joseph Epstein's ("Epstein" or "Mr. Epstein"), *Pro se*, filed a Request for a Public Hearing on the Application for Approval of the Indirect License Transfer of Three Mile Island Nuclear Station, Unit 1 Facility Operating License No. DPR-50. NRC Docket No. 50-289 .

On August 21, 2005 Eric Joseph Epstein's, *Pro se*, filed a Request for a Public Hearing on the Applications for Approval of the Direct License and Indirect License Transfers of Facility Operating Licenses and Conforming Amendments of Exelon Generation Company, LLC and PSEG Nuclear LLC, at Peach Bottom Atomic Power Station, Units 2 and 3; [Docket Nos. 50-277 and 50-278] (ML050670664).

On August 24, 2005 AmerGen responded to Mr. Epstein's filing through the law firm of Winston & Strawn, LLP.

On September 15, 2005 Joint Petitioners filed an "Answer of Exelon Generation Company, LLC to Request for Hearing of Eric Joseph Epstein." The Joint Petitioners sought dismissal Mr. Epstein's Petition due lack of standing and contested all of the contentions.

However, the Joint Petitioners flawed and incomplete research failed to note precedent regarding standing in Nuclear Regulatory Commission proceedings, including post reactor operator license proceedings at Three Mile Island-1 (TMI).

The TMI Restart hearings were adjudicated before an Atomic Safety Licensing Board (ASL&B) **and** a Special Master appointed by the Commission.

In fact, the Three Mile Island Restart hearings included the intervention of Norman and Marjorie Aamodt who resided in Coatesville, Pennsylvania, some **fifty miles** from Three Mile Island-1.

The Aamodts were afforded standing and recognized to have “concrete and particular” interests relating to “management issues” (1) in an NRC sanctioned proceeding that occurred **six years after** Three Mile Island-1 had been licensed.

As the data submitted in footnote 2 clearly states, Coatesville is “approximately 50 miles form Three Miles Island” (2).

The NRC correctly deemed the standing of Norman and Marjorie Aamodt to fall within the Commission's established zone of “proximate” interests.

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1 On August 9, 1979 the Nuclear Regulatory Commission set up the ASL&B to hear managerial, technical and financial issues relating to the restart of Three Mile Island Unit-1. On March 6, 1980 NRC Commissioners directed the Board to examine 13 “specific management” issues.

The Aamodts, who resided approximately **50 miles** from Three Mile Island, were accorded **full intervention status** on a post licensing proceeding.

Restart hearings reopened on operating cheating on October 2, 1981 and concluded on December 10, 1981. The NRC Special Master's report, released on April 28, 1982 found TMI managers, General Public Utilities, engaged in cheating and wrongdoing, the company's response and integrity were inadequate, GPU submitted “material false statements,” and the company's training program was deemed ineffective and inadequate.

2 For relevant mileage comparisons, Mr. Epstein utilized MapQuest. The mileage from Exelon's Emergency Operations Facility (EOF) in **Coatesville** to Three Mile Island is **56.84** miles.

The mileage from Peach Bottom Atomic Power Station to the Coatesville EOF is **44.56** miles.

According to the NRC, the distance is close to 50 miles. “In accordance with NRC policy, any move of an EOF to a site more than 25 miles from a plant must be approved by the Commission. Specifically, AmerGen asked for permission to shift the Three Mile Island 1 EOF from its current location about 12 miles from the Middletown, Pa., plant to an EOF in Coatesville, Pa. That facility, located about 50 miles from Three Mile Island-1, already serves Limerick and Peach Bottom.”(US NRC, No. I-03-016)

Similar to the Aamodt intervention in the TMI Restart Hearings, Mr. Epstein's contentions in the proposed Indirect and Direct License Transfers at Three Mile Island-1 and Peach Bottom 2 & 3, relate directly to "management issues."

## **II. Recent Adverse Material Development Demonstrates That Three Mile -1 and Peach Bottom 2 & 3 Are Operating In Violation of Their Operating Licenses**

On September 30, 2005 Mr. Epstein obtained a copy of Michael Jamgochian's Differing Professional Opinion (DPO) relating to AmerGen and Exelon's emergency evacuation planning in Pennsylvania (See Exhibit 1). Mr. Jamgochian is a senior Nuclear Regulatory Commission (NRC) Staff Member with 40 years of experience. Mr. Jamgochian concluded:

- The children in Pennsylvania are not safe during a nuclear emergency because they are unplanned for during an evacuation.
- The NRC 120 day count down for pulling all of Pennsylvania's nuclear power licenses should start immediately.
- Pennsylvania is not in compliance with the Federal Regulations requiring emergency planning for preschool children.
- The Federal Emergency Management Agency has been reaching a false finding for emergency planning compliance for the past 19 years.
- Petition for rulemaking PRM 50-79 "Emergency Planning for Preschool Children" should be approved and GM EV-2 should be codified into NRC Regulations.

Attached is a Constituent Service Request Form to Congressman Todd Russell Platts (19th District, Pennsylvania), and a letter to the NRC Commissioners. Mr. Epstein is formally seeking answers to questions raised by Michael Jamgochian's Differing Professional Opinion (DPO) from the NRC Commissioners (See Exhibit 2).

### III. Conclusion

Mr. Jamgochian's Differing Professional Opinion substantiates Mr. Epstein's concerns about emergency preparedness relating to the Direct and Indirect Licenses Transfers proposed for Three Mile Island-1 (3) and the Peach Bottom Atomic Power Station 2 & 3 (4).

Currently, Three Mile Island-1 and Peach Bottom 2 & 3 are operating in **violation of their licenses**, and have been doing so for 19 years.

The DPO clearly **undermines** AmerGen's assertion that, "The emergency plans for AmerGen Units (i.e., Clinton Power Station, Oyster Creek Nuclear Generating Station, and Three Mile Island Station, Unit 1), will not be required to be revised as a result of the merger." (5)

In addition, Exelon's "No Significant Hazards Consideration" claims in the Company's Application for Approval of License Transfers" (March 3, 2005) for Peach Bottom 2 and 3 are **no longer valid** based on Michael Jamgochian's findings.

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3 "Contention 8: AmerGen's training programs, procedures, and conduct of operations for Emergency Planning are in violation of federal regulations," (pp. 35-37.)

4 "Contention 7: Exelon's training programs, procedures, and conduct of operations for Emergency Planning are in violation of federal regulations," (p. 35).

5 Please refer to Exhibit 3. "Additional Information Regarding Links Transfer Applications, Pamela B. Cowan, Director - Licensing and Regulatory Affairs, Exelon Generation Company, LLC, AmerGen Energy Company LLC, May 24, 2005).

Specifically,

...the physical security plans, emergency response plans, operator training and requalification programs, and the quality assurance plans are not substantively and materially changed by the proposed license transfers and amendments . Therefore, the proposed approvals do not... involve a significant reduction in a margin of safety. (5)

#### IV. Remedies

1) The NRC should hold the Indirect and Direct License transfers for Three Mile Island-1 and Peach Bottom 2 & 3 in **abeyance** until the licensees can bring their emergency plans into compliance with their operating licenses and NRC regulations;

2) The NRC should **compel** Exelon and AmerGen to establish that the corporate organizations proposed in the Indirect and Direct license transfers are able to **comply** with current emergency preparedness criteria as stipulated by their operating licenses;

3) Due to the the identified violations, the emergency plans at Three Mile Island-1 and Peach Bottom 2 and 3 must be **revised prior to the proposed merger** in order to meet NRC licensing obligations; and,

4) Deadlines to resolve these issues should be set against the **background of 19 years of noncompliance.**

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5 Please refer to Exhibit 4.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric Joseph Epstein", written over the typed name.

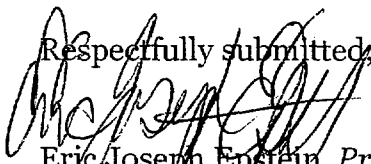
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DATED: October 7, 2005



## CERTIFICATION OF SERVICE

\_\_\_\_\_I hereby certify that I have this day served a true and correct copy of the foregoing document upon the active participants named below by US mail and electronic mail.

Respectfully submitted,  
  
Eric Joseph Epstein, *Pro se*  
4100 Hillsdale Road  
Harrisburg, PA 17112

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**DATE: October 7, 2005**

## Exhibit 1

DIFFERING PROFESSIONAL OPINION

1. DPO CASE NUMBER

INSTRUCTIONS: Prepare this form legibly and submit three copies to the address provided in Block 14 below.

2. DATE RECEIVED

3. NAME OF SUBMITTER

Michael Jamgochian

4. POSITION TITLE

Senior Nuclear Engineer

5. GRADE

GS-15

6. OFFICE/DIVISION/BRANCH/SECTION

NRR

7. BUILDING

8. MAIL STOP

0-12-A1

9. SUPERVISOR

Stephanie Coffin

10. DESCRIBE THE PRESENT SITUATION, CONDITION, METHOD, ETC., WHICH YOU BELIEVE SHOULD BE CHANGED OR IMPROVED

(Continue on Page 2 or 3 as necessary.)

I believe that FEMA and the State of Pennsylvania does not comply with FEMA guidance that NRC bases it's licensing decisions on, I believe that the criteria in FEMA GM-EV-2 must be codified into NRC's emergency planning regulations, in order to permit the NRC to make a finding that "there is reasonable assurance that protective measures can and will be taken." I also believe that the 120 day clock contained in 10 CFR 50.54(s)(2) should be implemented in Pennsylvania during the rulemaking. My beliefs are based on the fact that in 45 FR 55406, dated August 19, 1980 the Commission stated that the NRC will "review FEMA findings and determinations on the adequacy and capability of implementation of State and local plans (and will) make decisions with regard to the over all state of emergency preparedness (i.e., integration of the licensee's emergency preparedness as determined by the NRC and of the State/local governments as determined by FEMA and reviewed by NRC) and issuance of operating licenses or

CONTINUED ON PAGE 2

11. DESCRIBE YOUR DIFFERING OPINION IN ACCORDANCE WITH THE GUIDANCE PRESENTED IN NRC MANAGEMENT DIRECTIVE 10.159.

(Continue on Page 2 or 3 as necessary.)

The Commission's emergency planning regulations, specifically 10 CFR 50.47(a)(1), require that nuclear power plant licensees develop and maintain emergency plans that provide reasonable assurance that adequate protective actions can and will be taken for the protection of the public in an emergency. Section 50.47(a)(2) states that the NRC will base its findings regarding adequacy of these plans on a review by NRC of FEMA, who will determine if the plans are adequate and whether there is reasonable assurance that they can be implemented. NRC and FEMA promulgated NUREG-0654/FEMA-REP-1 to provide detailed guidance on the development and implementation of these plans. Appendix 4 in NUREG-0654 details the requirements for the identification and planning for special facility populations and schools. FEMA Guidance Memorandum (GM) EV-2, "Protective Actions For School Children," provides guidance to assist federal officials in evaluating adequacy of state and local government offsite emergency plans and preparedness for protecting school children during a radiological emergency. The term "school" refers to all public and private schools, pre-schools, and licensed day care centers with 10 or more students.

CONTINUED ON PAGE 3

12. Check (a) or (b) as appropriate:



a. Thorough discussions of the issue(s) raised in item 11 have taken place within my management chain; or



b. The reasons why I cannot approach my immediate chain of command are:

SIGNATURE OF SUBMITTER

DATE

SIGNATURE OF CO-SUBMITTER (if any)

DATE

13. PROPOSED PANEL MEMBERS ARE (in priority order):

1. Kathy Gibson

2. Cathy Haney

3. Frank Gillespie

14. Submit this form to:

Differing Professional Opinions Program Manager

Office of:

Mail Stop:

15. ACKNOWLEDGMENT

THANK YOU FOR YOUR DIFFERING PROFESSIONAL OPINION. It will be carefully considered by a panel of experts in accordance with the provisions of NRCMD 10.159, and you will be advised of any action taken. Your interest in improving NRC operations is appreciated.

SIGNATURE OF DIFFERING PROFESSIONAL OPINIONS PROGRAM MANAGER (DPOPM)

PRE-CONDITIONS MET

☐ YES

☐ NO

DATE OF ACKNOWLEDGMENT

## DIFFERING PROFESSIONAL OPINION (Continued)

CONTINUE ITEM 10, ITEM 11, AND/OR ITEM 12 FROM PAGE 1. (Indicate the block number to which this information applies.)

BLOCK 10 CONTINUED - shutdown of operating reactors. FEMA will approve State and local emergency plans and preparedness, where appropriate, based upon its findings and determinations with respect to the adequacy of State and local plans and the capabilities of State and local governments to effectively implement these plans and preparedness measures. These findings and determinations will be provided to the NRC for use in its licensing process." In 45 FR 55403 dated August 19, 1980, the Commission emphasized the importance of preplanning for emergencies by stating, "In order to discharge effectively its statutory responsibilities, the Commission must know that proper means and procedures will be in place to assess the course of an accident and its potential severity, that NRC and other appropriate authorities and the public will be notified promptly, and that adequate protective actions in response to actual or anticipated conditions can and will be taken." Since September 2002, I have been responsible for evaluating the merits of a Petition For Rulemaking (PRM 50-79) "Emergency Planning For Nursery Schools and Day Care Centers." After evaluating all public comments received, along with several discussions with the petitioners, FEMA, several state and local governments and NRC staff and management. I developed a Commission paper recommending that the petition be denied (SECY-05-0045, dated March 11, 2005). This SECY was concurred in by FEMA, NRC Office directors and the EDO. I based my recommendation to deny this petition on my fundamental belief that current requirements and guidance, along with state and local government established emergency plans provide reasonable assurance of adequate protection of all members of the public, including all public and private schools, day care centers and nursery schools, in the event of a nuclear power plant incident, and that no new regulations were required. The petition did raise questions about implementation and compliance with relevant requirements and guidelines that were thought to be previously determined to be adequate in the petitioners state and local area. Accordingly, the petition was recommended to the Commission to be denied and forwarded to FEMA for investigation into implementation problems relating to the preplanning of protective actions for day care centers and nursery schools. Because the real problem is implementation and not regulations, FEMA committed to the NRC and the petitioners that the implementation concerns relating to the elements in GM-EV-2 would be fully demonstrated and evaluated during the May 05 TMI exercise. The demonstration of the elements in EV-2 for nursery schools and day care centers was not adequately demonstrated during the TMI exercise. Therefore, I can no longer support the staff position to deny PRM 50-79. I believe that my current position is confirmed by letters from Pennsylvania and supported by the following. The petitioner stated, and the comment letters from FEMA, PEMA, Penn. Governor and the Mayor of Harrisburg confirmed that the preplanned protective measures for public and private elementary, middle and high schools is very different then the preplanned protective measures for licensed day care and nursery schools. This is not consistent with NRC and FEMA's regulations and guidelines. FEMA's Guidance Memorandum EV-2 require that state and local emergency plans address, at a minimum, preplanned transportation resources that are to be available for evacuating all schools including day care and nursery schools. Preplanned evacuation reception and care centers will be established for all schools, preplanned alert and notification procedures are to be established for all schools and preplanned public information for parents and guardians of all schools including day care and nursery schools. The petitioner stated that all of the above does not exist for nursery schools and day care centers in Pennsylvania. FEMA, PEMA, the Pennsylvania Governor and the Mayor of Harrisburg have confirmed that all of the above exist only for public and private elementary, middle or high schools and does not exist for nursery schools and day care centers. FEMA and PEMA has documented that PEMA will notify day care and nursery schools of an existing emergency but that it is the responsibility of the day care and nursery schools and the parents to take the necessary protective actions instead of the state or local government. In a letter dated March 24, 2005, the NRC told the petitioner that protective actions for nursery schools in accordance with EV-2 would be evaluated in the May 05 TMI offsite exercise. The FEMA report on the TMI exercise did not show an evaluation of all the requirements in EV-2 for nursery schools or day care centers.

BLOCK 11 CONTINUED - The state and local government offsite emergency plans shall address, at a minimum, preplanned transportation resources available for evacuating all schools including the licensed day care and nursery schools; preplanned reception and care centers for all schools including day care and nursery schools, alert and notification procedures for all schools including day care and nursery schools and public information for parents and guardians of all schools including day care and nursery school children. No evidence has been presented to show that Pennsylvania complies with these emergency planning requirements. The consequences of not codifying state and local government specific responsibilities for day care and nursery school children is that these children in Pennsylvania will not have preplanned evacuation capabilities in the event of an emergency. Therefore, the NRC would not be able to find that "there is reasonable assurance that protective measures can and will be taken in the event of an emergency. Thus requiring NRC to implement the 120 day clock contained in 10 CFR 50.54(s)(2) and to grant the petition for rulemaking (50-79) to codify the criteria contained in GM-EV-2.

## DIFFERING PROFESSIONAL OPINION (Continued)

CONTINUE ITEM 10, ITEM 11, AND/OR ITEM 12 FROM PAGE 1. (Indicate the block number to which this information applies.)

The protective actions that were described in the TMI exercise report for nursery schools and day care centers is that "Municipalities in the Commonwealth of Pennsylvania are the responsible offsite response organizations for notifying day care centers located in their geographical/political boundaries in the event of an incident occurring at TMI. The municipal plans and procedures require that day care centers be notified of an incident at TMI at the Alert, Site Area and General Emergency and/or when Protective Action Decisions are announced."

The TMI Exercise report further stated that "Each municipality has a Notification and Resources Manual that list the names, address, point of contact and phone number of the day care centers located in their portion of the EPZ. In every case, the municipalities simulated notification of the day care centers in a timely manner pursuant to their codified plans and procedures". The above TMI Exercise descriptions of how the state and local governments will protect the health and safety of nursery school children taken in conjunction with the following quote from a FEMA letter dated April 29, 2004 to NRC, illustrates a definite lack of compliance with the regulations and guidelines.

"Please keep in mind that day care centers and nursery schools are considered private business in the Commonwealth of Pennsylvania as opposed to elementary, middle and high schools that are considered public institutions. As was stated in a letter dated January 10, 2003, from the Acting Director of the Pennsylvania Emergency Management Agency to the NRC, "Parents are legally required to send their children to public schools unless they opt to enroll them in private institutions. The use of private day-care facilities is voluntary on the parents. There is no legal requirement to send children to them." Also from a FEMA letter dated July 29, 2004 to NRC "parents should review with day care centers and nursery schools procedures and plans for the safety and protection of their children, the Commonwealth of Pennsylvania Department of Public Welfare issued a bulletin on December 27, 2003, requiring day care centers to develop an EOP. The enclosed Draft EOP for Nursery Schools delineates a listing of transportation providers and contact lists for drivers." Also

In a letter from PEMA to the petitioners dated July 30, 2004, PEMA stated that "Child care facilities are, for the most part, private business entities who in conjunction with the parents, should assume responsibility for the safety of their charges. Local government will not treat these businesses any differently than it does any other citizen. Especially in rural areas, municipal government simply may not have the resources to provide shelter. In so far as municipal shelters are available, child care providers are encouraged to use them". Also

"Child care facilities are, for the most part, private entities who should assume responsibility for their charges. As mentioned in the Day Care planning guide that's on PEMA's website "...the municipal emergency management agency may be able to help, but it won't be able to guarantee that you will remain in one group, thus complicating your accountability problems." Child day care providers should coordinate with municipal government and decided whether to use government-provided resources, or to make separate arrangements". Also "Care of their charges is ultimately the responsibility of the day care provider and the parents of the children".

"If time allows, municipal officials will issue a protective action decision. However, localized emergencies or severe time constraints may dictate that the day care facility operator must choose the most prudent course of action. The sample plan on PEMA's website lists considerations (Part II, Checklist A) that will help the day care provider to make that decision".

In a letter for the Mayor of Harrisburg to the NRC dated December 3, 2002, he stated "The exclusion of such facilities in present Radiological Emergency Plans is an omission that is certain to create confusion and chaos in the event that an evacuation would ever be ordered in one of the affected evacuation zones near a nuclear power station. Parents and others would be attempting to reach the nursery schools and day care centers, which would almost certainly delay any prospect of their orderly evacuation. Further, nursery schools and day care centers have thus far generally not put into place any evacuation plan, which means there would be an on-site confusion regarding the safety of the children entrusted to these facilities."

All of the above documentation, along with the TMI exercise results leads me to conclude that state and local emergency plans do not address preplanned transportation resources available for evacuating all public and private schools including day cares and nursery schools establishing preplanned reception and care centers for all public and private schools including day care and nursery school has not been addressed and alert and notification procedures for these schools and public information for parents and guardians of day care and nursery school children has not been preplanned.

## Exhibit 2



DATE \_\_\_\_\_

# CONSTITUENT SERVICE FORM

*Congressman Todd R. Platts*

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City: New Cumberland \_\_\_\_\_ State: PA \_\_\_\_\_ Zip: 17070 \_\_\_\_\_

Phone (H): 717-770-0852 \_\_\_\_\_ (W) \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Other Federal ID or Claim Numbers: \_\_\_\_\_

Federal agency with which you have a problem: NRC, FEMA & PEMA \_\_\_\_\_

**Please describe your problem briefly:** The attached Differing Professional Opinion from Senior NRC Engineer states that PA preschool children are without radiological preplanning and therefore reasonable assurance cannot be given to the state of PA that preschool children are safe in the event of a radiological emergency.

**What would you like Congressman Platts to do to help?** Help me get answers from NRC regarding Michael Jamgochian's Professional Differing Opinion.

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In accordance with Title 5, Section 552(a), of the United States Code (1974 Privacy Act), I hereby authorize Congressman Todd R. Platts and/or his staff to request assistance on my behalf in connection with my above named subject/problem with above named government agency. I authorize discussion of my records with Congressman Platts and/or his staff.

Signature: \_\_\_\_\_

Date: 10/3/05

**\*\* Under the terms of the Privacy Act, all constituent service requests must include a signature \*\***

10/3/05

**Regarding: Michael Jamgochian's Differing Professional Opinion**

Attention: Commissioners  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Honorable Commissioners,

Attached is a copy of Senior NRC Engineer Michael Jamgochian's Differing Professional Opinion (DPO).

**As you must already know, this document indicates the following:**

1. The children in PA are not safe during a nuclear emergency because they are unplanned for; and
2. The NRC 120 day count down for pulling all of PA's nuclear power licenses should start immediately; and
3. PA never has, and continues not to comply with the Federal Regulations requiring emergency planning for preschool children; and
4. FEMA has been reaching a false finding for emergency planning compliance for the past 19 years; and
5. Our petition for rulemaking PRM 50-79 "Emergency Planning for Preschool Children" should be approved and GM EV-2 should be codified into NRC Regulations; and
6. NRC Review of Public Comments on PRM 50-79 leads itself to believe that this violation is shared by other states.

Due to evidence we have submitted to you in support of our Petition PRM 50-79 you have had concrete and overwhelming evidence for more than 3 years that preschool children have not been preplanned for in the event of a radiological emergency.

Mr. Jamgochian was put in charge of reviewing the merits of our Petition PRM 50-79. His DPO indicates that his review of Petition PRM 50-79 has found that preschool children in PA are not preplanned for and the fundamental principals of our petition should be approved and codified in to NRC regulations.

Further, he finds that due to this evidence "reasonable assurance" cannot be met in the Commonwealth of PA at this time.

**Due to this DPO, we the petitioners have several questions:**

1. Can you, the Commissioners, state to us, Congressman Platt's and the citizens of the Commonwealth of Pennsylvania that the preschool children in PA's EPZs are safe in the event of a nuclear emergency?
2. In a recent article published in the Harrisburg Patriot, PEMA Director Adrian King states He rejected Jamgochian's assertion that the regulations require state and local officials to provide transportation to evacuate preschoolers. Under Department of Public Welfare licensing requirements day-care centers must provide their own transportation.

Are Mr. King's conclusions correct?



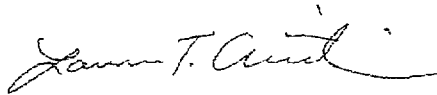
3. What actions will you, the Commissioners, take to insure "reasonable assurance" can be met, and that the preschool children in PA are adequately planned for?
4. How could this dangerous situation have gone undetected by the NRC & FEMA for over 19 years?
5. Can you, the Commissioners, state to us, Congressman Platt's and the citizens of the United States that preschool children in ALL other states EPZs are safe?
6. Can you, the Commissioners supply us proof that this same oversight does not exist in ALL other states?
7. Do you, the Commissioners, agree that the fundamental principals of our Petition PRM 50-79 should be codified into NRC regulations as Mr. Jamgochian is recommending?

It's our position that the basic fundamental principals in Petition PRM 50-79 should be approved and codified into the NRC regulations as soon as possible so that the NRC can better insure that preschool children located in EPZs all across the United States will have preplanned radiological emergency services.

Our experience has been that states will not do this on their own accord.

Please respond to our questions respectfully submitted via Congressman Platts as soon as possible.

Respectfully submitted via Congressman Platts,



Lawrence T. Christian  
133 Pleasant View Terrace, New Cumberland PA, 17070



Eric J. Epstein  
4100 Hillisdale Road, Harrisburg PA 17112

\*Mr. Christian is author of US NRC Petition for Rulemaking PRM 50-79 "Radiological Emergency Planning for Preschool Children".

\*\*Mr. Epstein is the Coordinator of the EFMR Monitoring group, a nonpartisan community based organization established in 1992. EFMR monitors radiation levels at Peach Bottom and Three Mile Island nuclear generating stations, invests in community development, and sponsors remote robotics research.

## Exhibit 3



An Exelon Company  
AmerGen Energy Company, LLC  
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Warrenville, IL 60555

www.exeloncorp.com



Nuclear

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RS-05-066

May 24, 2005

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ATTN: Document Control Desk  
Washington, DC 20555-0001

Braidwood Station, Units 1 and 2  
Facility Operating License Nos. NPF-72 and NPF-77  
NRC Docket Nos. STN 50-456 and STN 50-457

Byron Station, Units 1 and 2  
Facility Operating License Nos. NPF-37 and NPF-66  
NRC Docket Nos. STN 50-454 and STN 50-455

Clinton Power Station  
Facility Operating License No. NPF-62  
NRC Docket No. 50-461

Dresden Nuclear Power Station, Units 1, 2 and 3  
Facility Operating License No. DPR-2  
Renewed Facility Operating License Nos. DPR-19 and DPR-25  
NRC Docket Nos. 50-10, 50-237 and 50-249

LaSalle County Station, Units 1 and 2  
Facility Operating License Nos. NPF-11 and NPF-18  
NRC Docket Nos. 50-373 and 50-374

Limerick Generating Station, Units 1 and 2  
Facility Operating License Nos. NPF-39 and NPF-85  
NRC Docket Nos. 50-352 and 50-353

Oyster Creek Nuclear Generating Station  
Facility Operating License No. DPR-16  
NRC Docket No. 50-219

Peach Bottom Atomic Power Station, Units 1, 2, and 3  
Facility Operating License No. DPR-12  
Renewed Facility Operating License Nos. DPR-44 and DPR-56  
NRC Docket Nos. 50-171, 50-277, and 50-278

Quad Cities Nuclear Power Station, Units 1 and 2  
Renewed Facility Operating License Nos. DPR-29 and DPR-30  
NRC Docket Nos. 50-254 and 50-265

Three Mile Island Nuclear Station, Unit 1  
Facility Operating License No. DPR-50  
NRC Docket No. 50-289

Zion Nuclear Power Station, Units 1 and 2  
Facility Operating License Nos. DPR-39 and DPR-48  
NRC Docket Nos. 50-295 and 50-304

Subject: Additional Information Regarding License Transfer Applications


Reference: Letter from NRC, "Additional Information for License Transfer Applications," to Exelon Generation Company, LLC and AmerGen Energy Company, LLC dated May 10, 2005

As documented in the referenced letter, Exelon Generation Company, LLC (Exelon Generation) and AmerGen Energy Company, LLC (AmerGen) agreed to provide additional information to the NRC regarding the requests for license transfers associated with the proposed merger of Exelon Corporation and Public Service Enterprise Group. Attachment 1 provides the additional information.

Included in Attachment 1 are the assumptions used in the development of the projected income statement and, as described in the enclosed affidavit, Exelon Generation and AmerGen consider this confidential financial information. Accordingly, Exelon Generation and AmerGen request this information be withheld from public disclosure in accordance with 10 CFR 2.390(a)(4), "Public inspections, Exemptions, Requests for Withholding." A non-proprietary version of Attachment 1, suitable for public disclosure, is provided as Attachment 2.

If you have any questions about this letter, please contact Kenneth Ainger at (856) 339-2136.

Respectfully,



Pamela B. Cowan  
Director – Licensing and Regulatory Affairs  
Exelon Generation Company, LLC  
AmerGen Energy Company, LLC

Attachments  
Enclosure

Indirect License Transfers," dated March 3, 2005. Tables 1 and 2 provide names and titles of officers of Exelon Generation and Exelon Ventures Company, LLC, respectively. The mailing address of the officers of Exelon Generation is 300 Exelon Way, Kennett Square, Pennsylvania 19348. Exelon Generation is organized under the laws of the Commonwealth of Pennsylvania. The mailing address of the officers of Exelon Ventures Company, LLC is 10 S. Dearborn Street, Chicago, Illinois 60603. Exelon Ventures Company, LLC is organized under the laws of the State of Delaware. The officers of Exelon Generation (except one officer as denoted on Table 1) and the officers of Exelon Ventures Company, LLC are U.S. citizens. Exelon Generation and AmerGen provide the information in Tables 1 and 2 as an organizational snapshot and note that periodic organizational title and staff changes will necessarily alter some of the names and titles before the license transfers are finalized. With respect to Exelon Electric & Gas, as described in the applications mentioned above, the new Board of Directors will be nominated at a ratio of two-thirds by Exelon Corporation and one-third by Public Service Enterprise Group and any change to its officers will be made once the merger is completed. We will provide the names, addresses, and citizenship of the directors and principle officers of Exelon Electric & Gas following consummation of the merger.

6. The assumptions that were used in the development of the projected income statement.

Response

Tables 3 and 4 contain assumptions used in the projected income statement for Exelon Generation post-merger. The net annual mean rating, net capacity factor, refueling outages, and site expenses are provided for the nuclear units.

7. A statement related to the AmerGen submittal confirming that the emergency plans will not be affected by the merger.

Response

The emergency plans for the AmerGen units (i.e., Clinton Power Station, Oyster Creek Nuclear Generating Station, and Three Mile Island Nuclear Station, Unit 1) will not be required to be revised as a result of the merger. However, with the objective of improving emergency preparedness post-merger, a revision to the emergency plan for Oyster Creek Nuclear Generating Station may be proposed as a result of integrating the Salem and Hope Creek Generating Stations into the Exelon Generation/AmerGen fleet.

## Exhibit 4

Exelon Generation  
4300 Winfield Road  
Warrenville, IL 60555

www.exeloncorp.com

RS-05-025

10 CFR 50.80  
10 CFR 50.90

March 3, 2005

U.S. Nuclear Regulatory Commission  
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Facility Operating License Nos. DPR-39 and DPR-48  
NRC Docket Nos. 50-295 and 50-304

Subject: Application for Approval of License Transfers

In accordance with 10 CFR 50.80, "Transfer of licenses," Exelon Generation Company, LLC

#### E. Environmental Considerations

This application, and the accompanying administrative license amendments for Peach Bottom, are exempt from environmental review because they fall within the categorical exclusion of 10 CFR 51.22, "Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review," paragraph (c)(21). This application does no more than request approvals of indirect and direct license transfers and conforming license amendments for Peach Bottom, Units 2 and 3. Additionally, the proposed license transfers and conforming license amendments do not involve any amendment or other change that would directly affect the actual operation of the facilities involved in any substantive way. The proposed transfers and amendments do not involve an increase in the amounts, or a change in the types, of any radiological effluents that may be allowed to be released off-site, and do not involve any increase in the amounts or change in the types of any non-radiological effluents that may be released off-site. Further, no increase in the individual or cumulative occupational radiation exposure is involved.

#### F. No Significant Hazards Consideration

Consistent with the generic determination in 10 CFR 2.1315, "Generic determination regarding license amendments to reflect transfers," paragraph (a), the proposed license transfers and conforming license amendments for Peach Bottom, Units 2 and 3 involve no significant hazards consideration.

The proposed conforming license amendments for Peach Bottom, Units 2 and 3 also delete specific license conditions relating to the terms and conditions of decommissioning trust agreements. In place of these license conditions, the requirements of 10 CFR 50.75(h)(1) will apply. As stated in 10 CFR 50.75(h)(4), deletion of those license conditions involves no significant hazards consideration.

The transfers and proposed amendments do not involve any change in the design or licensing basis, plant configuration, or operation of the referenced nuclear stations. All Limiting Conditions for Operation, Limiting Safety System Settings and Safety Limits specified in Technical Specifications remain unchanged. Also, the physical security plans, emergency response plans, operator training and requalification programs, and the quality assurance plans are not substantively and materially changed by the proposed license transfers and amendments.

Therefore, the proposed approvals do not: (1) involve an increase in the probability or consequences of an accident previously analyzed; (2) create the possibility of a new or different kind of accident from the accidents previously evaluated; or (3) involve a significant reduction in a margin of safety.

#### IV. OTHER REGULATORY APPROVALS AND SCHEDULE

The merger is conditioned upon, among other things, the approval by shareholders of both companies and a number of regulatory approvals or reviews by federal and state energy authorities. These include, in addition to the NRC, the New Jersey Board of Public Utilities, the Pennsylvania Public Utility Commission, the Illinois Commerce Commission (notice filing only), the Federal Energy Regulatory Commission, the Securities and Exchange Commission, and either the Department of Justice or the Federal Trade Commission, depending upon which agency reviews the anti-trust aspects of the merger. The companies intend to seek shareholder