

EDO Principal Correspondence Control

FROM: DUE: 07/01/11

EDO CONTROL: G20110398

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FINAL REPLY:

Thomas Saporito
Saprodani Associates

TO:

Borchardt, EDO

FOR SIGNATURE OF :

** GRN **

CRC NO:

Leeds, NRR

DESC:

ROUTING:

2.206 - Exelon Generation, Exelon Nuclear,
Limerick Generating Station and John Rowe
(EDATS: OEDO-2011-0386)

Borchardt
Weber
Virgilio
Ash
Muessle
OGC/GC
Dean, RI
Burns, OGC
Mensah, NRR
Scott, OGC
Bowman, OEDO

DATE: 06/01/11

ASSIGNED TO:

CONTACT:

NRR

Leeds

SPECIAL INSTRUCTIONS OR REMARKS:

Template: EDO-001

E-RIDS: EDO-01

EDATS Number: OEDO-2011-0386

Source: OEDO

General Information

Assigned To: NRR

OEDO Due Date: 7/1/2011 11:00 PM

Other Assignees:

SECY Due Date: NONE

Subject: 2.206 - Exelon Generation, Exelon Nuclear, Limerick Generating Station and John Rowe

Description:

CC Routing: RegionI; OGC; Tanya.Mensah@nrc.gov; Catherine.Scott@nrc.gov

ADAMS Accession Numbers - Incoming: NONE

Response/Package: NONE

Other Information

Cross Reference Number: G20110398

Staff Initiated: NO

Related Task:

Recurring Item: NO

File Routing: EDATS

Agency Lesson Learned: NO

OEDO Monthly Report Item: NO

Process Information

Action Type: 2.206 Review

Priority: Medium

Signature Level: NRR

Sensitivity: None

Urgency: NO

Approval Level: No Approval Required

OEDO Concurrence: NO

OCM Concurrence: NO

OCA Concurrence: NO

Special Instructions:

Document Information

Originator Name: Thomas Saporito

Date of Incoming: 6/1/2011

Originating Organization: Saproani Associates

Document Received by OEDO Date: 6/1/2011

Addressee: R. W. Borchardt, EDO

Date Response Requested by Originator: 7/1/2011

Incoming Task Received: 2.206

**UNITED STATES NUCLEAR REGULATORY COMMISSION
BEFORE THE EXECUTIVE DIRECTOR FOR OPERATIONS**

In the Matter of:

**SAPRODANI ASSOCIATES, and
THOMAS SAPORITO**

DATE: 01 JUNE 2011

Petitioner,

v.

**EXELON GENERATION, EXELON
NUCLEAR, LIMERICK GENERATING
STATION, AND JOHN ROWE**

Licensee.

**PETITION UNDER 10 C.F.R. §2.206 SEEKING ENFORCEMENT
ACTION AGAINST EXELON GENERATION, EXELON NUCLEAR,
LIMERICK GENERATING STATION, AND JOHN ROWE**

NOW COMES, Saprodani Associates, by and through and with, Thomas Saporito, Senior Consulting Associate (hereinafter "Petitioner") and submits a "*Petition Under 10 C.F.R. §2.206 Seeking Enforcement Action Against Exelon Generating, Exelon Nuclear, Limerick Generating Station, and John Rowe*" (Petition). For the reasons stated below, the U.S. Nuclear Regulatory Commission (NRC) should grant the Petition as a matter of law:

NRC HAS JURISDICTION AND AUTHORITY TO GRANT PETITION

The NRC is the government agency charged by the United States Congress to protect public health and safety and the environment related to operation of commercial nuclear reactors in the United States of America (USA). Congress charged the NRC with this grave responsibility in creation of the agency through passing the Energy Reorganization Act of 1974 (ERA). In the instant action, Exelon Generating, Exelon Nuclear, Limerick Generating Station and John Rowe are collectively and singularly a "licensee" of the NRC and subject to NRC regulations and authority under 10 C.F.R. §50 and under other NRC regulations and authority in operation of the Limerick Generating Station. Thus, through Congressional action in creation of the agency; and the fact that the named-actionable parties identified above by Petitioner are collectively and singularly a licensee of the NRC, the agency has jurisdiction and authority to grant the Petition.

STANDARD OF REVIEW

A. Criteria for Reviewing Petitions Under 10 C.F.R. §2.206

The staff will review a petition under the requirements of 10 C.F.R. §2.206 if the request meets all of the following criteria:

- The petition contains a request for enforcement-related action such as issuing an order modifying, suspending, or revoking a license, issuing a notice of violation, with or without a proposed civil penalty, etc.
- The facts that constitute the basis for taking the particular action are specified. The petitioner must provide some element of support beyond the bare assertion. The supporting facts must be credible and sufficient to warrant further inquiry.
- There is no NRC proceeding available in which the petitioner is or could be a party and through which petitioner's concerns could be addressed. If there is a proceeding available, for example, if a petitioner raises an issue that he or she has raised or could raise in an ongoing licensing proceeding, the staff will inform the petitioner of the ongoing proceeding and will not treat the request under 10 C.F.R. §2.206.

B. Criteria for Rejecting Petitions Under 10 C.F.R. §2.206

- The incoming correspondence does not ask for an enforcement-related action or fails to provide sufficient facts to support the petition but simply alleges wrongdoing, violations of NRC regulations, or existence of safety concerns. The request cannot be simply a general statement of opposition to nuclear power or a general assertion without supporting facts (e.g., the quality assurance at the facility is inadequate). These assertions will be treated as routine correspondence or as allegations that will be referred for appropriate action in accordance with MD 8.8, "Management of Allegations".
- The petitioner raises issues that have already been the subject of NRC staff review and evaluation either on that facility, other similar facilities, or on a generic basis, for which a resolution has been achieved, the issues have been resolved, and the resolution is applicable to the facility in question. This would include requests to reconsider or reopen a previous enforcement action (including a decision not to initiate an enforcement action) or a director's decision. These requests will not be treated as a 2.206 petition unless they present significant new information.
- The request is to deny a license application or amendment. This type of request should initially be addressed in the context of the relevant licensing action, not under 10 C.F.R. 2.206.
- The request addresses deficiencies within existing NRC rules. This type of request should

be addressed as a petition for rulemaking.

See, Volume 8, Licensee Oversight Programs, Review Process for 10 C.F.R. Petitions, Handbook 8.11 Part III.

**REQUEST FOR ENFORCEMENT-RELATED ACTION TO MODIFY,
SUSPEND, OR REVOKE A LICENSE AND ISSUE A NOTICE OF
VIOLATION WITH A PROPOSED CIVIL PENALTY**

A. Request for Enforcement-Related Action

Petitioner respectfully requests that the NRC take escalated enforcement action against the above-captioned licensee(s) and suspend, or revoke the NRC license granted to the licensee for operation of the Limerick Generating Station; and that the NRC issue a notice of violation with a proposed civil penalty against the collectively named and each singularly named licensee captioned-above in this matter.

B. Facts That Constitute the Basis for Taking the Requested Enforcement-Related Action Requested by Petitioner

On or about May 30th, 2011, the Limerick Generating Station experienced an unexpected shut-down or “SCRAM” event at Unit-2 – where two reactor re-circulation pumps tripped off-line during reactor start-up operations. This significant event followed a similar significant event which occurred less than 36-hours earlier on the very same nuclear reactor where the nuclear reactor experienced a SCRAM event. The licensee failed to properly analyze, determine, and correct the “root-cause” of the initial SCRAM event which apparently lead to the second SCRAM event which occurred less than 36-hours later. These unexpected SCRAM events are serious events which challenge nuclear safety systems designed to protect public health and safety from exposure to nuclear particles and contamination. The fact that the licensee failed to properly analyze, determine, and correct the “root-cause” of the initial SCRAM event prior to restarting the nuclear reactor in question, significantly undermines any confidence that the NRC can have that the licensee will comply with the agency's safety regulations in the operation of the Limerick Generating Station under 10 C.F.R. §50. Thus, the licensee cannot provide the NRC with any measure of reasonable assurance that it will comply with NRC regulations and requirements under 10 C.F.R. §50, in the operation of the Limerick Generating Station going forward.

C. There Is No NRC Proceeding Available in Which the Petitioner is or Could be a Party and Through Which Petitioner's Concerns Could be Addressed

Petitioner avers here that there is no NRC proceeding available in which the Petitioner is or could be a party and through which Petitioner's concerns could be addressed.

CONCLUSION

FOR ALL THE ABOVE STATED REASONS, and because Petitioner has amply satisfied all the requirements under 10 C.F.R. §2.206 for consideration of the Petition by the NRC Petition Review Board (PRB), the NRC should grant Petitioner's requests made in the instant Petition as a matter of law.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 17th day of April, 2011, a copy of foregoing document was provided to those identified below by means shown:

Hon. William Borchardt
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
{Sent via U.S. Mail and electronic mail}

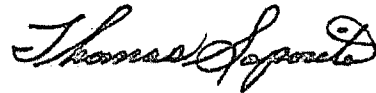
Melanie Checkle, Allegations Coordinator
U.S. Nuclear Regulatory Commission
Region II Headquarters
Atlanta, Georgia 30303
{Sent via electronic mail}

Hon. Gregory B. Jaczko, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
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Oscar DeMiranda
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Carolyn Evans, Dir. of Enforcement
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Local and National Media Sources



By: _____

Thomas Saporito
Senior Consulting Associate