



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

September 2, 2011

Mr. Thomas Saporito
Post Office Box 8413
Jupiter, FL 33468-8413

Dear Mr. Saporito:

Your petition request dated June 1, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML11152A165), addressed to Mr. William Borchardt, Executive Director for Operations of the Nuclear Regulatory Commission (NRC, or Commission), was referred to the Office of Nuclear Reactor Regulation. Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, you requested that the NRC: (1) take escalated enforcement action against Exelon Generation Company, LLC, (the licensee) and suspend, or revoke the NRC license(s) granted for operation of the Limerick Generating Station (LGS); and (2) issue a notice of violation with a proposed civil penalty against the licensee and Mr. John Rowe, Chairman and Chief Executive Officer of Exelon Corporation. You further clarified the civil penalty request in a teleconference dated June 13, 2011, by providing an amount of \$500,000. As the basis for your request, you indicated the following:

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 offline 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.

In a teleconference conducted on June 13, 2011, you provided additional information regarding the basis for these requested actions. You described additional events at LGS, including a SCRAM of Unit 2 on February 25, 2011, a shutdown event involving an inadvertent actuation of Primary Containment Isolation Valves on Unit 2 on April 2, 2011, and a SCRAM event on Unit 1

on June 3, 2011. In this teleconference, you expressed concerns relating to the associated transients upon the reactor coolant system, including the reactor vessel, as well as programmatic maintenance, testing, and training issues. You stated that your primary concern is that the licensee had not determined the root cause of these events prior to reactor restart.

The Petition Review Board (PRB), chaired by Mr. David Skeen, met on June 20, 2011, and reviewed your petition, including the information provided in the June 13, 2011, teleconference, in accordance with NRC Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions" (ADAMS Accession No. ML041770328). MD 8.11 specifies the criteria that are used to determine whether to accept or reject petitions for review. In a request made pursuant to 10 CFR 2.206, the petitioner must specify the facts that constitute the bases for taking the requested action. The petitioner must provide some element of support beyond the bare assertion. In addition, the supporting facts must be credible and sufficient to warrant further inquiry. After reviewing your concerns, the PRB's initial recommendation was that your petition not be accepted for review in the 10 CFR 2.206 process because your petition did not provide any element of support (i.e., new or pertinent facts related to the need for the requested actions), beyond the basic assertions, to warrant further inquiry.

As noted above, you requested that a civil penalty be imposed on the licensee (i.e., fine of \$500,000). In accordance with the requirements in 10 CFR 2.205, "Civil Penalties," and the guidance in the NRC's Enforcement Manual (ADAMS Accession No. ML102630150), civil penalties (i.e., monetary fines) may only be imposed if a violation has occurred. You have not identified, with specificity, what NRC requirement the licensee has violated, either in your petition, or the supplemental teleconferences. As such, there is no basis provided to impose a civil penalty.

In general terms, the NRC regional staff formally review events that result in a Licensee Event Report (LER) for violations of NRC requirements and generic issues to ensure that the licensee is providing accurate information and providing appropriate corrective actions. This process is described in the NRC Inspection Manual via Inspection Procedure 71153, "Follow-up of Events and Notices of Enforcement Discretion." Closeout of the LER review is then documented in an inspection report. Therefore, NRC review of the appropriateness of the licensee's corrective actions is ensured by this mechanism for the events described above, with the exception of the April 2, 2011, event. The April 2, 2011, event did not require the submission of an LER. However, the event has been reviewed by the NRC staff. This review did not identify any violations of NRC requirements, nor any findings under the NRC's Reactor Oversight Process (ROP). Further, the NRC resident inspection staff responds to plant SCRAMs when they occur and monitors the licensee's evaluation prior to restart of the plant. Such involvement ensures that NRC management is informed of the licensee's restart process so that appropriate regulatory action could be taken, if warranted. In each of the SCRAM cases described above, the resident inspection staff monitored the restart process, including the status of the causal investigations, and no condition was identified that would warrant the suspension or revocation of the LGS operating license(s). You have not provided any additional facts or information, beyond a general assertion of unacceptable licensee performance, that would change this determination.

Beyond the individual events, you expressed concern about the number of events that have occurred at LGS over a 6-month period. As part of the NRC's ROP, licensees report to the NRC certain performance indicators (PIs). These indicators, and their bases, are described in

NRC Inspection Manual Chapter (IMC) 0608, "Performance Indicator Program," IMC 0308, Attachment 1, "Technical Basis for Performance Indicators," and Nuclear Energy Institute (NEI) 99-02, Revision 6, "Regulatory Assessment Performance Indicator Guideline," (ADAMS Accession Nos. ML070360605, ML071860516 and ML092931123, respectively). Included under the Initiating Events cornerstone of the ROP is an indicator for "SCRAMS per 7000 Hours Critical." This initiating event indicator is designed to monitor situations, such as what you describe, where a licensee has multiple SCRAM events in a short period of time. This indicator calculates the number of unplanned SCRAMs while critical in the previous four quarters. This number of SCRAMs is then weighted by the ratio of 7,000 hours to the total number of hours critical in the previous four quarters (i.e., SCRAMs that occur with less than 7,000 critical hours over the past four quarters are weighted more heavily in the indicator calculation). This indicator has a pre-established "green-to-white" threshold value of 3.0, which, if exceeded, would result in additional NRC scrutiny (inspections). Current PI results for LGS and other operating reactors can be found on the NRC's public website at http://www.nrc.gov/NRR/OVERSIGHT/ASSESS/pi_summary.html. While the recent SCRAMs place each LGS unit closer to reaching the PI threshold, you have not provided any basis, beyond your assertion of unacceptable performance, to deviate from using the pre-established PI threshold to guide NRC actions in response to the SCRAM events at LGS, Units 1 and 2.

Regarding your concerns about neutron embrittlement of the reactor vessel and the stresses imposed by the SCRAM events, you did not provide any specific evidence to warrant NRC actions, beyond general concerns about public safety and excessive reactor transients. For example, you did not provide any specific evidence that either of the LGS units are approaching any of the transient thresholds in the design and licensing basis. Thus, there is no basis to take enforcement action regarding these concerns. The NRC staff notes that a review of reactor vessel integrity was recently completed for the LGS units during the review of a measurement uncertainty recapture power uprate (ADAMS Accession No. ML110691095) which concluded that operation for a period of up to 32 effective full-power years (a threshold that neither LGS unit has yet exceeded) was justified for each unit.

On June 13, 2011, the Petition Manager contacted you, via telephone and electronic mail, to inform you of the PRB's initial recommendation and to offer you the opportunity to address the PRB prior to its making a final determination regarding your request. You accepted that opportunity and a second teleconference was held on June 30, 2011. In this teleconference, you reiterated much of the same supplemental information as was presented on June 13, 2011.

The PRB then met on August 17, 2011, to review the supplemental information provided in the June 30, 2011, teleconference and concluded that no new information was provided that would change the PRB's initial determination. As such, the PRB's final determination is to not accept your petition for review under the 10 CFR 2.206 process because your petition did not meet the criteria for review as stated in NRC MD 8.11.

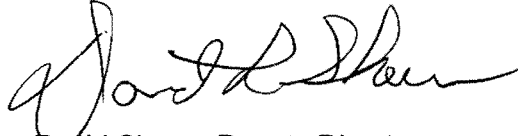
In both of the teleconferences that were held for this petition request you indicated concerns with NRC staff performance as it relates to LGS oversight. In the second teleconference, you specifically requested that the NRC's Office of the Inspector General (OIG) investigate NRC staff wrongdoing regarding the preliminary staff recommendation. In accordance with your request, records of this matter, including both of the teleconference transcripts, have been forwarded to the OIG.

T. Saporito

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Thank you for bringing this matter to the attention of the NRC. Please contact Peter Bamford, Project Manager for LGS, Units 1 and 2, if you have any questions regarding this action. Mr. Bamford may be reached at 301-415-2833.

Sincerely,

A handwritten signature in black ink, appearing to read "David Skeen", written in a cursive style.

David Skeen, Deputy Director
Division of Engineering
Office of Nuclear Reactor Regulation

Docket Nos. 50-352 and 50-353

cc: Distribution via Listserv

T. Saporito

- 4 -

Thank you for bringing this matter to the attention of the NRC. Please contact Peter Bamford, Project Manager for LGS, Units 1 and 2, if you have any questions regarding this action. Mr. Bamford may be reached at 301-415-2833.

Sincerely,

/ra/

David Skeen, Deputy Director
Division of Engineering
Office of Nuclear Reactor Regulation

Docket Nos. 50-352 and 50-353

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ADAMS Accession Nos: Pkg ML112371878/Incoming ML11152A165/

Response Letter ML112371884

* via email

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