

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

NATURAL RESOURCES DEFENSE  
COUNCIL, INC.,

Petitioner,

vs.

UNITED STATES NUCLEAR  
REGULATORY COMMISSION and  
the UNITED STATES OF AMERICA,

Respondents.

Case No. 13-1311

January 14, 2014

**EXELON'S UNOPPOSED MOTION FOR LEAVE TO INTERVENE**

Pursuant to 28 U.S.C. § 2348, Rules 15(d) and 27 of the Federal Rules of Appellate Procedure, and Circuit Rules 15(b) and 27, Exelon Generation Company, LLC (for these purposes, “Exelon”), respectfully moves for leave to intervene in the above-captioned proceeding, in which the Petitioners seek review of the U.S. Nuclear Regulatory Commission’s (“NRC” or “Commission”) final order, *In the Matter of Exelon Generation Company, LLC* (Limerick Generating Station, Units 1 and 2), Docket Nos. 50-352-LR and 50-353-LR (CLI-13-07), \_\_ NRC \_\_ (Oct. 31, 2013). Counsel for Petitioners and Respondents have represented that those parties do not oppose this motion.

Exelon is the owner of Units 1 and 2 of the Limerick Generating Station (“Limerick”), located in Limerick Township, Pennsylvania, and the current holder of the NRC operating licenses for Limerick. On June 22, 2011, Exelon filed an application to renew the operating licenses for Limerick. The resulting NRC adjudication, to which Exelon was a party, is the subject of the petition for review in this Court. Exelon’s interests will be affected directly if the agency order that is the subject of the petition for review is enjoined, set aside, or suspended, because such an action could adversely affect the status of Exelon’s license renewal application and Exelon’s future operation of Limerick. Therefore, pursuant to 28 U.S.C. § 2348, Exelon may appear “as of right” in any proceeding to review the order. Exelon wishes to intervene as a respondent in support of the order.

This Court has routinely granted intervention and party status to affected NRC licensees or applicants in lawsuits brought against the NRC. *See, e.g., Sustainable Energy & Econ. Dev. v. Nuclear Regulatory Comm’n*, 2012 U.S. App. LEXIS 5546 (D.C. Cir. 2012) (identifying the NRC licensee as intervenor in petition for review proceeding challenging NRC’s issuance of that license, where the licensee sought intervention under 28 U.S.C. § 2348); *Devia v. Nuclear Regulatory Comm’n*, 492 F.3d 421, 423 (D.C. Cir. 2007) (recognizing the NRC licensee as intervenor in an appeal of a Commission order authorizing the NRC’s issuance of that license); *Carstens v. Nuclear Regulatory Comm’n*, 742 F.2d 1546,

1555 (D.C. Cir. 1984) (recognizing nuclear utility that received operating license for two nuclear reactors as intervenor in petition for review proceeding brought by environmental group and citizen, challenging NRC's issuance of licenses to that nuclear utility), *cert. denied*, 471 U.S. 1136 (1985)); *Lorion v. Nuclear Regulatory Comm'n*, 712 F.2d 1472 (D.C. Cir. 1983) (recognizing the owner and operator of the nuclear plant at issue as an intervenor), *rev'd sub nom. on other grounds*, *Fla. Power & Light Co. v. Lorion*, 470 U.S. 729 (1985); *c.f.*, *City of Cleveland v. Nuclear Regulatory Comm'n*, 17 F.3d 1515, 1517 (D.C. Cir. 1994) (denying a motion for leave to intervene under 28 U.S.C. § 2348 because the movant, an electric cooperative, was not the owner or operator of the facility at issue and had no other economic relationship with the power plant at issue). Indeed, such intervention is consistent with this Court's position that a party that is the subject of an administrative action has a "self-evident" right to participate in the review of that action. *See Sierra Club v. Env'tl. Prot. Agency*, 292 F.3d 895, 899-900 (D.C. Cir. 2002) ("In many if not most cases the petitioner's standing to seek review of administrative action is self-evident . . . . In particular, if the complainant is 'an object of the action (or forgone action) at issue' -- as is the case usually in review of a rulemaking and nearly always in review of an adjudication -- there should be 'little question that the action or inaction has caused him injury, and that a

judgment preventing or requiring the action will redress it.”) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561-62 (1992)).

For the foregoing reasons, Exelon respectfully requests that this Court grant Exelon leave to intervene in the above-captioned proceeding, with the full rights attendant thereto.

Respectfully submitted,

/s/ Brad Fagg

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Dated: January 14, 2014

*Counsel for*  
*Exelon Generation Company, LLC*



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**EXELON CERTIFICATES AND DISCLOSURES**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, Exelon Generation Company, LLC provides the following Disclosure Statement to accompany Exelon's Unopposed Motion for Leave to Intervene:

Exelon Corporation is the parent company of Exelon Generation Company, LLC, and the only publicly-held company with a 10% or greater ownership interest in Exelon Generation Company, LLC. No other publicly-held company has a financial interest in the outcome of this proceeding.

In addition, pursuant to Circuit Rules 27(a)(4), and 28(a)(1)(A), the undersigned counsel for Exelon Generation Company, LLC, certifies as follows:

- (1) The following parties appeared before the U.S. Nuclear Regulatory Commission:
  - (a) Applicant: Exelon Generation Company, LLC.
  - (b) Former Intervenor: Natural Resources Defense Council, Inc.
- (2) The following parties appear before this Court:
  - (a) Petitioner: Natural Resources Defense Council, Inc.
  - (b) Respondents: U.S. Nuclear Regulatory Commission and the United States of America.
  - (c) Intervenor: Exelon Generation Company, LLC.

/s/ Brad Fagg

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*Counsel for*  
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**CERTIFICATE OF SERVICE**

Pursuant to Rule 25 of the Federal Rules of Appellate Procedure and Circuit Rule 25.1 of this Court, I hereby certify that I have this 14th day of January, 2014, served the foregoing documents, “Exelon’s Unopposed Motion for Leave to Intervene” and “Exelon Certificates and Disclosures,” through the CM/ECF system, which will send a notice of electronic filing to the following individuals:

Howard M. Crystal  
Counsel for Petitioners  
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Washington, D.C. 20009

Andrew Paul Averbach  
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11555 Rockville Pike  
One White Flint North  
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U.S. Nuclear Regulatory Commission  
Mail Stop 15 D21  
11555 Rockville Pike  
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Rockville, MD 20852

For the following parties, who have not yet consented to electronic service, I served the foregoing documents via First Class Mail, pursuant to Federal Rule of Appellate Procedure 25 and Circuit Rule 25(c):

Annette Vietti-Cook  
Secretary  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD

Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20004

In addition, pursuant to Electronic Case Filing Rule ECF-6 and Circuit Rule 27(b), on January 14, 2014, I submitted four paper copies of these documents by First Class Mail addressed to the Clerk.

/s/ Brad Fagg  
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(202) 739-5191  
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Howard M. Crystal  
Counsel for Petitioners  
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