

September 15, 2016

J. Bradley Fewell
Senior Vice President Regulatory Affairs
Exelon Generation Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: RESPONSE TO APPEAL OF BACKFIT IMPOSED ON BRAIDWOOD AND
BYRON STATIONS REGARDING COMPLIANCE WITH 10 CFR 50.34(b),
GDC 15, GDC 21, GDC 29, AND THE LICENSING BASIS

Dear Mr. Fewell:

This letter responds to your June 2, 2016, letter (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16154A254). In that letter, you requested a second-level appeal of the subject backfit, which was issued by the U.S. Nuclear Regulatory Commission (NRC) staff in a letter dated October 9, 2015 (ADAMS Accession No. ML14225A871).

In response to your request and in accordance with the NRC's Management Directive 8.4, "Management of Facility-specific Backfitting and Information Collection," I appointed several senior NRC staff and managers to constitute a Backfit Appeal Review Panel to review your appeal of the staff's determination that a backfit was necessary at Braidwood Station, Units 1 and 2, and Byron Station, Units 1 and 2, as well as the staff's application of the compliance backfit exception provided in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.109 (the "Backfit Rule").

The panel undertook a detailed review of the relevant information at issue, that is, information pertinent to the performance of pressurizer safety valves and their treatment during accident analyses which support licensing decisions. The panel also reviewed the compliance exception to the Backfit Rule and re-affirmed that the compliance exception is intended to address failures to meet known and established Commission standards because of omission or mistake of fact. New or modified interpretations of what constitutes compliance therefore do not fall within the exception. The panel documented its review and evaluation of the technical and legal issues in a report enclosed with its memorandum to me. The panel's memorandum and report are publicly available via ADAMS Accession Nos. ML16236A202 and ML16236A208, respectively.

I have reviewed the panel's report, their recommendations, and their response to questions I posed when establishing the panel. In addition, I met with the panel and Office of Nuclear Reactor Regulation management to assure that this issue has been given thorough, technically sound, and legally well-founded consideration.

J. Fewell

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Based on my review and discussions, I agree with the panel's conclusion that positions taken by the NRC staff in the 2015 backfit decision represent new and different staff views on how to address pressurizer safety valve performance following water discharge. Although these staff positions are conservative approaches that could provide additional safety margin, they do not provide an appropriate basis for a compliance backfit. In the absence of an assumed failure of the pressurizer safety valve to reseal, the concerns articulated in the backfit related to event classification, event escalation, and compliance with 10 CFR 50.34(b) and General Design Criteria 15, 21, and 29 are no longer at issue.

Sincerely,

/RA/

Victor M. McCree
Executive Director
for Operations

Docket Nos. STN 50-456, STN 50-457,
STN 50-454, and STN 50-455

cc: Listserv

J. Fewell

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Based on my review and discussions, I agree with the panel's conclusion that positions taken by the NRC staff in the 2015 backfit decision represent new and different staff views on how to address pressurizer safety valve performance following water discharge. Although these staff positions are conservative approaches that could provide additional safety margin, they do not provide an appropriate basis for a compliance backfit. In the absence of an assumed failure of the pressurizer safety valve to reseal, the concerns articulated in the backfit related to event classification, event escalation, and compliance with 10 CFR 50.34(b) and General Design Criteria 15, 21, and 29 are no longer at issue.

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/RA/

Victor M. McCree
Executive Director
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Docket Nos. STN 50-456, STN 50-457,
STN 50-454, and STN 50-455

cc: Listserv

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