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**10 CFR 50.90**

RA-17-006

February 20, 2017

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555-0001

Oyster Creek Nuclear Generation Station  
Renewed Facility Operating License No. DPR-16  
NRC Docket No. 50-219 and 72-15

**Subject:** License Amendment Request – Deletion of Facility Operating License  
Conditions Related to Decommissioning Trust Provisions

**Reference:** NRC Final Rule for Decommissioning Trust Provisions (Federal Register 67  
FR 78332, dated December 24, 2002)

In accordance with 10 CFR 50.90, "Application for amendment of license, construction permit, or early site permit," Exelon Generation Company, LLC (EGC) requests an amendment to the Renewed Facility Operating License (FOL) No. DPR-16 for Oyster Creek Nuclear Generation Station (OCNGS).

This license amendment request proposes to delete from the OCNGS FOL certain license conditions which impose specific requirements on the decommissioning trust agreement, on the basis that upon approval of this amendment, the provisions of 10 CFR 50.75(h) that specify the regulatory requirements for decommissioning trust funds will apply to OCNGS. The option to delete license conditions relating to the terms and conditions of decommissioning trust agreements and, instead, conform to the 10 CFR 50.75(h) regulations adopted in 2002 (Reference) is specifically contemplated by the provisions of 10 CFR 50.75(h)(5), and the generic finding of no significant hazards consideration in 10 CFR 50.75(h)(4).

Attachment 1 to this letter contains a detailed description and evaluation of the proposed changes to the FOL. Attachment 2 contains a mark-up of the current FOL pages depicting the proposed changes.

EGC has concluded that the proposed changes present no significant hazards consideration under the standards set forth in 10 CFR 50.92, "Issuance of amendment" and as provided in the generic no significant hazards consideration in 10 CFR 50.75(h)(4).

The proposed changes have been reviewed and approved by the OCNCS Plant Operations Review Committee in accordance with the requirements of the EGC Quality Assurance Program.

EGC requests review and approval of this proposed amendment by February 20, 2018, and a 60-day implementation period.

In accordance with 10 CFR 50.91, "Notice for public comment; State consultation," paragraph (b), EGC is notifying the State of New Jersey of this application for license amendment by transmitting a copy of this letter and its attachments to the designated State Official.

There are no regulatory commitments contained within this submittal.

If you have any questions concerning this submittal, please contact Mr. Paul Bonnett at (610) 765-5264.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 20<sup>th</sup> day of February 2017.

Respectfully,

A handwritten signature in black ink, reading "Michael P. Gallagher", is written over a horizontal line.

Michael P. Gallagher  
Vice President, License Renewal & Decommissioning  
Exelon Generation Company, LLC

- Attachments: 1. Evaluation of Proposed Changes  
2. Proposed Renewed Facility Operating License (Marked-Up Pages)

cc: NRC Regional Administrator, Region I  
NRC Senior Resident Inspector - Oyster Creek Nuclear Generating Station  
NRC Project Manager, NRR - Oyster Creek Nuclear Generating Station  
Director, Bureau of Nuclear Engineering - New Jersey Department of  
Environmental Protection  
Mayor of Lacey Township, Forked River, NJ

## **Attachment 1**

### **License Amendment Request**

### **Oyster Creek Nuclear Generation Station**

### **Docket No. 50-219 and 72-15**

### **EVALUATION OF PROPOSED CHANGES**

**Subject:** Deletion of Facility Operating License Conditions Related to  
Decommissioning Trust Provisions

- 1.0 SUMMARY DESCRIPTION
- 2.0 DETAILED DESCRIPTION
- 3.0 TECHNICAL EVALUATION
- 4.0 REGULATORY EVALUATION
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  - 4.2 No Significant Hazards Consideration
  - 4.3 Precedent
  - 4.4 Conclusion
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- 6.0 REFERENCES

## **EVALUATION OF PROPOSED CHANGES**

### **1.0 SUMMARY DESCRIPTION**

This license amendment request proposes to delete from the Oyster Creek Nuclear Generation Station (OCNGS) Renewed Facility Operating License (FOL) certain license conditions which impose specific requirements on the decommissioning trust agreement, on the basis that Exelon Generation Company, LLC (EGC) has elected to subject its decommissioning trust agreement to the regulatory requirements for decommissioning trust funds that are specified in 10 CFR 50.75(h). The option to delete license conditions relating to the terms and conditions of decommissioning trust agreements and, instead, conform to the regulations adopted in 2002 (Reference 1) and as amended in 2003 (Reference 2) is consistent with the NRC's stated intent in the Final Rule for Decommissioning Trust Provisions published in the Federal Register (i.e., 67 FR 78332 and 68 FR 65388, respectively) and is specifically contemplated by the provisions of 10 CFR 50.75(h)(5), and the generic finding of no significant hazards consideration in 10 CFR 50.75(h)(4).

Pursuant to the terms of 10 CFR 50.75(h)(5), OCNGS is currently exempt from the requirements in 10 CFR 50.75(h)(1) through (h)(3). Therefore, by deleting the specific license conditions as contemplated by the generic finding of no significant hazards considerations in 10 CFR 50.75(h)(4), the new terms and conditions of the decommissioning trust agreement will conform with and be subject to U.S. Nuclear Regulatory Commission's (NRC's) regulations in 10 CFR 50.75(h)(1) through (h)(3).

### **2.0 DETAILED DESCRIPTION**

In late 2002 (Reference 1), the NRC amended its regulations under 10 CFR 50.75(e) and added new provisions at 10 CFR 50.75(h)(1)-(4) that govern financial assurance mechanisms for licensees that are not "electric utilities" as defined in 10 CFR 50.2. The provisions in 10 CFR 50.75(h) includes substantially similar decommissioning trust requirements as those found in OCNGS FOL License Conditions 3.F through 3.K. In its 2002 rulemaking, the NRC addressed several comments regarding potential conflicts or inconsistencies between the provisions of 10 CFR 50.75(h) and a licensee's existing decommissioning trust-related license conditions. The NRC explained that "licensees will have the option of maintaining their existing license conditions or submitting to the new requirements" and "will be able to decide for themselves whether they prefer to keep or eliminate their specific license conditions" (67 FR 78332, 78335, 78339 (Reference 1)). To support the option to amend and eliminate these license conditions, the NRC made a generic determination in 10 CFR 50.75(h)(4) that a license amendment which does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves "no significant hazards consideration."

In November 2003 (Reference 2), the NRC added new section 10 CFR 50.75(h)(5) to the regulations, which codifies the NRC's stated intention of allowing licensees to choose to either maintain their existing license conditions or eliminating them in favor of complying with the new regulatory requirements (68 FR 65387, 65389 (Reference 2)). Section 50.75(h)(5) states:

"The provisions of paragraphs (h)(1) through (h)(3) of this section do not apply to any licensee that as of December 24, 2003, has existing license conditions relating to decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions. If a licensee with existing license conditions relating to decommissioning trust agreements elects to amend those conditions, the license amendment shall be in accordance with the provisions of paragraph (h) of this section."

The OCNGS FOL has license conditions relating to decommissioning trust agreements that were put in place prior to December 24, 2003. Consistent with 10 CFR 50.75(h)(5), EGC has elected to adopt the requirements of 10 CFR 50.75(h) by requesting deletion of those license conditions that are currently incorporated in the OCNGS FOL.

License Conditions 3.F through 3.K of the OCNGS FOL currently include the following requirements for the decommissioning trust funds:

- F. The decommissioning trust agreement for Oyster Creek must be in a form acceptable to the NRC.
- G. With respect to the decommissioning trust fund, investments in the securities or other obligations of Exelon Corporation, Exelon Generation Company, or their affiliates, successors, or assigns shall be prohibited. Except for investments tied to market indexes or other nonnuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.
- H. The decommissioning trust agreement for Oyster Creek must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the NRC 30-days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.
- I. The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30-days prior written notification to the Director, Office of Nuclear Reactor Regulation.
- J. The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.
- K. Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the Oyster Creek license and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting such Order.

The requested amendment would delete OCNGS License Conditions 3.F through 3.K.

### 3.0 TECHNICAL EVALUATION

The table below summarizes the manner in which the specific requirements of OCNCS License Conditions 3.F through 3.K requested for deletion are addressed in the regulations.

License Condition	Regulatory Requirement of 10 CFR 50.75(h)
<p>F. <del>The decommissioning trust agreement for Oyster Creek must be in a form acceptable to the NRC.</del> (Deleted)</p>	<p>While this wording is not explicitly stated in the revised regulations of 10 CFR 50.75, the intent of this license condition is the basic focus of the NRC's 2002 rulemaking (67 FR 78332). In that rulemaking, the NRC stated that "[t]he amendments to NRC's requirements for decommissioning trust provisions of nuclear power plants <i>require that decommissioning trust agreements be in a form acceptable to the NRC</i> in order to increase assurance that an adequate amount of decommissioning funds will be available for their intended purpose." (67 FR 78349 (emphasis added))</p>
<p>G. <del>With respect to the decommissioning trust fund, investments in the securities or other obligations of Exelon Corporation, Exelon Generation Company, or their affiliates, successors, or assigns shall be prohibited. Except for investments tied to market indexes or other nonnuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.</del> (Deleted)</p>	<p>§50.75(h)(1)(i)  The trustee, manager, investment advisor, or other person directing investment of the funds:  (A) Is prohibited from investing the funds in securities or other obligations of the licensee or any other owner or operator of any nuclear power reactor or their affiliates, subsidiaries, successors or assigns, or in a mutual fund in which at least 50 percent of the fund is invested in the securities of a licensee or parent company whose subsidiary is an owner or operator of a foreign or domestic nuclear power plant. However, the funds may be invested in securities tied to market indices or other nonnuclear sector collective, commingled, or mutual funds, provided that this subsection shall not operate in such a way as to require the sale or transfer either in whole or in part, or other disposition of any such prohibited investment that was made before the publication date of this rule, and provided further that no more than 10 percent of trust assets may be indirectly invested in securities of any entity owning or operating one or more nuclear power plants.</p>



<p>H. <del>The decommissioning trust agreement for Oyster Creek must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the NRC 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation.</del> (Deleted)</p>	<p>§50.75(h)(1)(iv)</p> <p>Except for withdrawals being made under §50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under § 50.82(a)(8), no further notification need be made to the NRC.</p>
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<p>I. <del>The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director, Office of Nuclear Reactor Regulation.</del> (Deleted)</p>	<p>§50.75(h)(1)(iii)</p> <p>The trust, escrow account, Government fund, or other account used to segregate and manage the funds may not be amended in any material respect without written notification to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the proposed effective date of the amendment. The licensee shall provide the text of the proposed amendment and a statement of the reason for the proposed amendment. The trust, escrow account, Government fund, or other account may not be amended if the person responsible for managing the trust, escrow account, Government fund, or other account receives written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period; and</p>
<p>J. <del>The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations.</del> (Deleted)</p>	<p>§50.75(h)(1)(i)</p> <p>The trustee, manager, investment advisor, or other person directing investment of the funds: (B) Is obligated at all times to adhere to a standard of care set forth in the trust, which either shall be the standard of care, whether in investing or otherwise, required by State or Federal law or one or more State or Federal regulatory agencies with jurisdiction over the trust funds, or, in the absence of any such standard of care, whether in investing or otherwise, that a prudent investor would use in the same circumstances. The term "prudent investor," shall have the same meaning as set forth in the Federal Energy Regulatory Commission's "Regulations Governing Nuclear Plant Decommissioning Trust Funds" at 18 CFR 35.32(a)(3), or any successor regulation.</p>



<p>K. <del>Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the Oyster Creek license and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting such Order. (Deleted)</del></p>	<p>This license condition is no longer needed, based on the provisions of 10 CFR 50.75(h) and EGC's decision to comply with that section's decommissioning trust agreement requirements. In addition, as noted in the NRC's 2002 rulemaking, "the NRC has always believed that it is preferable and more efficient to adopt standard rules, as opposed to applying specific license conditions on a case-by-case basis" (67 FR 78334). This license condition is effectively addressed by the standard requirements codified in the regulations.</p>
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#### 4.0 REGULATORY EVALUTION

##### 4.1 Applicable Regulatory Requirements/Criteria

The proposed changes have been evaluated to determine whether applicable regulations and requirements continue to be met. Exelon has determined that the proposed changes do not require any exemptions or relief from regulatory requirements.

10 CFR 50.75 "*Reporting and recordkeeping for decommissioning planning.*"

(h)(1) Licensees that are not "electric utilities" as defined in § 50.2 that use prepayment or an external sinking fund to provide financial assurance shall provide in the terms of the arrangements governing the trust, escrow account, or Government fund, used to segregate and manage the funds that—

(i) The trustee, manager, investment advisor, or other person directing investment of the funds:

(A) Is prohibited from investing the funds in securities or other obligations of the licensee or any other owner or operator of any nuclear power reactor or their affiliates, subsidiaries, successors or assigns, or in a mutual fund in which at least 50 percent of the fund is invested in the securities of a licensee or parent company whose subsidiary is an owner or operator of a foreign or domestic nuclear power plant. However, the funds may be invested in securities tied to market indices or other non-nuclear sector collective, commingled, or mutual funds, provided that this subsection shall not operate in such a way as to require the sale or transfer either in whole or in part, or other disposition of any such prohibited investment that was made before the publication date of this rule, and provided further that no more than 10 percent of trust assets may be indirectly invested in securities of any entity owning or operating one or more nuclear power plants.

(B) Is obligated at all times to adhere to a standard of care set forth in the trust, which either shall be the standard of care, whether in investing or otherwise, required by State or Federal law or one or more State or Federal regulatory agencies with jurisdiction over the trust funds, or, in the absence of any such standard of care, whether in investing or otherwise, that a prudent investor would use in the same circumstances. The term "prudent investor," shall have the same meaning as set forth in the Federal Energy Regulatory Commission's "Regulations Governing Nuclear Plant Decommissioning Trust Funds" at 18 CFR 35.32(a)(3), or any successor regulation.

(ii) The licensee, its affiliates, and its subsidiaries are prohibited from being engaged as investment manager for the funds or from giving day-to-day management direction of the funds' investments or direction on individual investments by the funds, except in the case of passive fund management of trust funds where management is limited to investments tracking market indices.

(iii) The trust, escrow account, Government fund, or other account used to segregate and manage the funds may not be amended in any material respect without written notification to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the proposed effective date of the amendment. The licensee shall provide the text of the proposed amendment and a statement of the reason for the proposed amendment. The trust, escrow account, Government fund, or other account may not be amended if the person responsible for managing the trust, escrow account, Government fund, or other account receives written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period; and

(iv) Except for withdrawals being made under § 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given to the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund,

are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under § 50.82(a)(8), no further notification need be made to the NRC.

(2) Licensees that are "electric utilities" under § 50.2 that use prepayment or an external sinking fund to provide financial assurance shall include a provision in the terms of the trust, escrow account, Government fund, or other account used to segregate and manage funds that except for withdrawals being made under § 50.82(a)(8) or for payments of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, no disbursement or payment may be made from the trust, escrow account, Government fund, or other account used to segregate and manage the funds until written notice of the intention to make a disbursement or payment has been given the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, at least 30 working days before the date of the intended disbursement or payment. The disbursement or payment from the trust, escrow account, Government fund or other account may be made following the 30-working day notice period if the person responsible for managing the trust, escrow account, Government fund, or other account does not receive written notice of objection from the Director, Office of Nuclear Reactor Regulation, Director, Office of New Reactors, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, within the notice period. Disbursements or payments from the trust, escrow account, Government fund, or other account used to segregate and manage the funds, other than for payment of ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund, are restricted to decommissioning expenses or transfer to another financial assurance method acceptable under paragraph (e) of this section until final decommissioning has been completed. After decommissioning has begun and withdrawals from the decommissioning fund are made under § 50.82(a)(8), no further notification need be made to the NRC.

(3) A licensee that is not an "electric utility" under § 50.2 and using a surety method, insurance, or other guarantee method to provide financial assurance shall provide that the trust established for decommissioning costs to which the surety or insurance is payable contains in its terms the requirements in paragraphs (h)(1)(i), (ii), (iii), and (iv) of this section.

(4) Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves "no significant hazards consideration."

(5) The provisions of paragraphs (h)(1) through (h)(3) of this section do not apply to any licensee that as of December 24, 2003, has existing license conditions relating to decommissioning trust agreements, so long as the licensee does not elect to amend those license conditions. If a licensee with existing license conditions relating to decommissioning trust agreements elects to amend those conditions, the license amendment shall be in accordance with the provisions of paragraph (h) of this section.

#### **4.2 No Significant Hazards Consideration**

Pursuant to 10 CFR 50.90, "Application for amendment of license, construction permit, or early site permit," Exelon Generation Company, LLC (EGC), proposes an amendment to the Renewed Facility Operating License (FOL) No. DPR-16 for Oyster Creek Nuclear Generation Station (OCNGS).

The proposed change involves deleting specific license conditions relating to the terms and conditions of decommissioning trust agreements. As such, the proposed amendment falls within the "generic" determination by the Commission in 10 CFR 50.75(h)(4) that such an amendment does not normally involve any significant hazards consideration:

"(4) Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves "no significant hazards consideration."

Pursuant to 10 CFR 50.92, EGC has reviewed the proposed change and concludes that the change does not involve a significant hazards consideration since the proposed change satisfies the criteria in 10 CFR 50.92(c) and 10 CFR 50.75(h)(4).

The criteria in 10 CFR 50.92(c) requires that operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The discussion below addresses each of these criteria and demonstrates that the proposed amendment does not constitute a significant hazard.

##### **1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?**

Response: No.

The requested changes delete License Conditions 3.F through 3.K pertaining to Decommissioning Trust Agreements currently in the OCNGS FOL. The requested changes are consistent with the types of license amendments permitted in 10 CFR 50.75(h)(4).

The regulations of 10 CFR 50.75(h)(4) state "Unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility that does no more than delete specific license conditions relating to the terms and conditions of decommissioning trust agreements involves "no significant hazard considerations."

This request involves changes that are administrative in nature. No actual plant equipment or accident analyses will be affected by the proposed changes.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

**2. Does the Proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?**

Response: No.

This request involves administrative changes to the license that will be consistent with the NRC's regulations at 10 CFR 50.75(h).

No actual plant equipment or accident analyses will be affected by the proposed change and no failure modes not bounded by previously evaluated accidents will be created.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

**3. Does the proposed amendment involve a significant reduction in a margin of safety?**

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers to limit the level of radiation dose to the public.

This request involves administrative changes to the license that will be consistent with the NRC's regulations at 10 CFR 50.75(h).

No actual plant equipment or accident analyses will be affected by the proposed change. Additionally, the proposed changes will not relax any criteria used to establish safety limits, will not relax any safety systems settings, or will not relax the bases for any limiting conditions of operation.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

Based on the above, EGC concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c) and complies with the "generic" determination by the Commission in 10 CFR 50.75(h)(4), accordingly, a finding of "no significant hazards consideration" is justified.

#### **4.3 Precedent**

The proposed changes are consistent with those approved for Comanche Peak Steam Electric Station, Units 1 and 2 (Reference 3).

#### **4.4 Conclusion**

In conclusion, based on the considerations discussed above: 1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, 2) such activities will be conducted in compliance with the Commission's regulations, and 3) the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

### **5.0 ENVIRONMENTAL CONSIDERATIONS**

The proposed amendment is confined to administrative changes for providing consistency with existing regulations. A review has determined that the proposed amendment would change a requirement with respect to installation or use of a facility component located within the restricted area, as defined in 10 CFR 20, or would change an inspection or surveillance requirement. However, the proposed amendment does not involve (i) a significant hazards consideration, (ii) a significant change in the types or significant increase in the amounts of any effluent that may be released offsite, or (iii) a significant increase in individual or cumulative occupational radiation exposure. Accordingly, the proposed amendment meets the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22(c)(9).

In addition, the proposed amendment involves (i) changes to surety, insurance, and/or indemnity requirements, or (ii) changes to recordkeeping, reporting, or administrative procedures or requirements. Accordingly, the proposed amendment meets the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22(c)(10).

Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed amendment.



## **6.0 REFERENCES**

1. NRC Final Rule for Decommissioning Trust Provisions (Volume 67 Federal Register 78332-78352) published December 24, 2002
2. NRC Final Rule for Decommissioning Trust Provisions (Volume 68 Federal Register 65386-65389) published November 20, 2003
3. Letter, NRC to TXU Energy "Comanche Peak Steam Electric Station (CPSES), Units 1 and 2 - Issuance of Amendments RE: Deletion of Unnecessary License Conditions and Reporting Requirements (TAC Nos. MB5770 and MB5771)," dated May 15, 2003 (ML031350770)

**Attachment 2**

**Proposed Renewed Facility Operating License (Marked-Up Pages)**

**Oyster Creek Nuclear Generation Station  
Renewed Facility Operating License No. DPR-16  
NRC Docket No. 50-219 and 72-15**

Proposed Changes to the Renewed Facility Operating License.

FOL Pages

-8-

-9-

These exemptions granted pursuant to 10 CFR 50.12 are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. With these exemptions, the facility will operate, to the extent authorized herein, in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

- E. Deleted
  - F. The licensee shall have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with Section 170 of the Atomic Energy Act of 1954, as amended, to cover public liability claims.
3. Sale and License Transfer Conditions:
- A. Deleted.
  - B. Deleted.
  - C. Deleted.
  - D. Deleted
  - E. Deleted
  - F. ~~The decommissioning trust agreement for Oyster Creek must be in a form acceptable to the NRC. Deleted~~
  - G. ~~With respect to the decommissioning trust fund, investments in the securities or other obligations of Exelon Corporation, Exelon Generation Company, or their affiliates, successors, or assigns shall be prohibited. Except for investments tied to market indexes or other nonnuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited. Deleted~~
  - H. ~~The decommissioning trust agreement for Oyster Creek must provide that no disbursements or payments from the trust shall be made by the trustee unless the trustee has first given the NRC 30 days prior written notice of payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trust shall be made if the trustee receives prior written notice of objection from the Director, Office of Nuclear Reactor Regulation. Deleted~~
  - I. ~~The decommissioning trust agreement must provide that the agreement cannot be amended in any material respect without 30 days prior written notification to the Director, Office of Nuclear Reactor Regulation. Deleted~~
  - J. ~~The appropriate section of the decommissioning trust agreement shall state that the trustee, investment advisor, or anyone else directing the investments made in the trust shall adhere to a "prudent investor" standard, as specified in 18 CFR 35.32(a)(3) of the Federal Energy Regulatory Commission's regulations. Deleted~~

- K. ~~Exelon Generation Company shall take all necessary steps to ensure that the decommissioning trust is maintained in accordance with the application for approval of the transfer of the Oyster Creek license and the requirements of the Order approving the transfer, and consistent with the safety evaluation supporting such Order. Deleted~~
- L. DELETED
- M. At the time of the closing of the transfer of Oyster Creek, and the respective license from AmerGen Energy Company, LLC (AmerGen) to Exelon Generation Company, AmerGen shall transfer to Exelon Generation Company ownership and control of AmerGen Oyster Creek NQF, LLC, and AmerGen Consolidation, LLC shall be merged into Exelon Generation Consolidation, LLC. Also at the time of the closing, decommissioning funding assurance provided by Exelon Generation Company, using an additional method allowed under 10 CFR 50.75 if necessary, must be equal to or greater than the minimum amount calculated on that date pursuant to, and required by 10 CFR 50.75 for Oyster Creek. Furthermore, funds dedicated for Oyster Creek prior to closing shall remain dedicated to Oyster Creek following the closing. The name of AmerGen Oyster Creek NQF, LLC shall be changed to Exelon Generation Oyster Creek NQF, LLC at the time of the closing.
4. This license is effective as of the date of issuance and shall expire at midnight on April 9, 2029.

FOR THE NUCLEAR REGULATORY COMMISSION

Bruce S. Mallett /RA/  
Deputy Executive Director for Reactor  
and Preparedness Programs  
Office of the Executive Director for Operations

Attachment:  
Appendices A and B -  
Technical Specifications

Date of Issuance: April 8, 2009