

**RESPONSE TO FREEDOM OF  
INFORMATION ACT (FOIA) REQUEST**

2017-000292

3

RESPONSE  
TYPE

INTERIM



FINAL

**REQUESTER:**

Samuel Miranda

**DATE:**

10/11/2019

**DESCRIPTION OF REQUESTED RECORDS:**

All records relating to Exelon's appeals dated December 8, 2015 (ML15342A112) and June 22, 2016 (ML16154A254) of the NRC staff's backfit order of October 9, 2015 (ML14225A871) that was directed to the Braidwood Station, Units 1 and 2, and the Byron Station, Units 1 and 2.

**PART I. -- INFORMATION RELEASED**

- ☒ The NRC has made some, or all, of the requested records publicly available through one or more of the following means: (1) <https://www.nrc.gov>; (2) public ADAMS, <https://www.nrc.gov/reading-rm/adams.html>; (3) microfiche available in the NRC Public Document Room; or FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>.
- ☒ Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (See Part I.D -- Comments) for a disclosure determination and direct response to you.
- ☒ We are continuing to process your request.
- ☒ See Part I.D -- Comments.

**PART I.A -- FEES**

AMOUNT

- ☐ You will be billed by NRC for the amount indicated.
- ☐ You will receive a refund for the amount indicated.
- ☐ Fees waived.

- ☐ Since the minimum fee threshold was not met, you will not be charged fees.
- ☐ Due to our delayed response, you will not be charged search and/or duplication fees that would otherwise be applicable to your request.

**PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE**

- ☐ We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). See 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- ☒ We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- ☒ Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- ☐ You may appeal this final determination within 90 calendar days of the date of this response. If you submit an appeal by mail, address it to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Mail Stop T-2 F43, Washington, D.C. 20555-0001. You may submit an appeal by e-mail to [FOIA.resource@nrc.gov](mailto:FOIA.resource@nrc.gov). You may fax an appeal to (301) 415-5130. Or you may submit an appeal through FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>. Please be sure to include on your submission that it is a "FOIA Appeal."

**PART I.C -- REFERENCES AND POINTS OF CONTACT**

You have the right to seek assistance from the NRC's FOIA Public Liaison by submitting your inquiry at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>, or by calling the FOIA Public Liaison at (301) 415-1276.

If we have denied your request, you have the right to seek dispute resolution services from the NRC's Public Liaison or the Office of Government Information Services (OGIS). To seek dispute resolution services from OGIS, you may e-mail OGIS at [ogis@nara.gov](mailto:ogis@nara.gov), send a fax to (202) 741-5789, or send a letter to: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. For additional information about OGIS, please visit the OGIS website at <https://www.archives.gov/ogis>.



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**PART I.D -- COMMENTS**

In interim response #1, we addressed records located by the offices of the Chief Human Capital Officer (OCHCO) and Administration (ADM), as well as many records already available to the public in ADAMS. In interim response #2, we addressed records located by the offices of the Executive Director for Operations (EDO), General Counsel (OGC), Nuclear Reactor Regulation (NRR), Region II, and Region III. This third interim response addresses some of the records from these offices, the time reporting data produced by the Office of the Chief Financial Officer (OCFO), as well as most of the records located by staff in the offices of New Reactors (NRO) and Nuclear Regulatory Research (RES). In addition, to the extent staff reported their time to the former Technical Assignment Control System (TACS) code(s) assigned to this backfit appeal review matter, during the time period June 22, 2016 through September 30, 2016, those reports are also included. Please note that, in the course of completing this interim response, we discovered an inconsistency in the handling of an email that appeared in both the EDO and OGC sections processed in interim response 2. The body of the email (pp 92-93 of the PDF) was redacted in the OGC section (ML19219A076) but released in the EDO section and in the records processed in this interim response. We will work with Document Processing Center staff to rectify this shortly.

To the extent the released records identify other responsive records that are already publicly available in ADAMS, we have included a notation on the page of the released record where you may locate that record, including the ADAMS accession number. Please note that included among the records produced by NRO staff, there is a copy of EPRI Report NP-2628, which had been released in response to a FOIA request processed back in 1983 (and that shows a Public Document Room (PDR) stamp on it). We appreciate that the reproductive quality of the document is poor, but it is the best copy we were able to reproduce. There are a number of EPRI and other Legacy ADAMS documents bearing PDR stamps that were considered by the backfit appeals review panel; we are in the process of verifying that they remain publicly available and endeavoring to locate the best quality copies. We expect to address them in our final response.

Portions of several multi-subject documents, which relate to matters other than the subject of your request, have been considered non-responsive records.

There are a relatively small number of records, which we are in the process of coordinating with one or more NRC program offices and a licensee, which we expect to address in our final response. We hope to complete our processing of the remaining records over the next several weeks. We appreciate your continued patience.

Signature - Freedom of Information Act Officer or Designee

**Stephanie A. Blaney**

Digitally signed by Stephanie A. Blaney  
Date: 2019.10.11 09:31:09 -04'00'



## RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

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### PART II.A -- APPLICABLE EXEMPTIONS

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- ☐ Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by the statute indicated.
- ☐ Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
- ☐ Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
- ☐ 41 U.S.C. 4702(b), which prohibits the disclosure of contractor proposals, except when incorporated into the contract between the agency and the
- ☐ Other:
- ☐ Exemption 4: The withheld information is a trade secret or confidential commercial or financial information that is being withheld for the reason(s) indicated.
- ☐ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
- ☐ The information is considered to be another type of confidential business (proprietary) information.
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- ☒ Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
- ☒ Deliberative process privilege.
- ☒ Attorney work product privilege.
- ☒ Attorney-client privilege.
- ☒ Exemption 6: The withheld information from a personnel, medical, or similar file, is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☐ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
- ☐ (A) Disclosure could reasonably be expected to interfere with an open enforcement proceeding.
- ☐ (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
- ☐ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
- ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of any individual.
- ☐ Other:

### PART II.B -- DENYING OFFICIALS

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			EDO	SECY
Stephanie A. Blaney	FOIA Officer	cell phone #s; shared drive passcode; leave	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carrie M. Safford	Asst. Gen. Counsel for Legal Counsel, Legislation & Special Projects	attorney-client communications; work product, and deliberative material	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>