



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

December 14, 2018

Mr. Bryan C. Hanson
Senior Vice President
Exelon Generation Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: OYSTER CREEK NUCLEAR GENERATING STATION – WITHDRAWAL OF ORDER EA-12-051, “ORDER MODIFYING LICENSES WITH REGARD TO RELIABLE SPENT FUEL POOL INSTRUMENTATION” (EPID L-2018-JLD-0005)

Dear Mr. Hanson:

By letter dated March 12, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12054A679), the U.S. Nuclear Regulatory Commission (NRC, the Commission) issued Order EA-12-051 to Exelon Generation Company, LLC (Exelon, the licensee). This order requires certain actions at Oyster Creek Nuclear Generating Station (Oyster Creek) associated with the Fukushima Near-Term Task Force recommendations. Specifically, Order EA-12-051 requires that reliable spent fuel pool (SFP) instrumentation be installed and maintained in the event of a beyond-design-basis external event.

Section IV of Order EA-12-051 (the Order) required that Exelon submit to the Commission for review an overall integrated plan by February 28, 2013, describing how Oyster Creek will achieve compliance with the requirements of the Order. The licensee responded to the Order by letter dated February 28, 2013 (ADAMS Accession No. ML13059A266). By letter dated December 1, 2016 (ADAMS Accession No. ML16336A441), the licensee notified the NRC that full compliance with the Order had been achieved at Oyster Creek. The NRC staff issued a safety evaluation describing its review of the Oyster Creek order compliance plan on April 19, 2017 (ADAMS Accession No. ML17086A492), and documented a compliance inspection at the Oyster Creek site by letter dated November 30, 2017 (ADAMS Accession No. ML17334A756).

Section IV of the Order also stipulates that the NRC's Director of the Office of Nuclear Reactor Regulation may, in writing, relax or rescind any of the conditions of the Order upon demonstration by the licensee of good cause.

By letter dated January 7, 2011 (ADAMS Accession No. ML110070507), Exelon submitted to the NRC a certification of permanent cessation of operations for Oyster Creek in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.82(a)(1)(i). In this letter, Exelon provided notification to the NRC of its intent to permanently cease operations at Oyster Creek no later than December 31, 2019. By letter dated February 14, 2018 (ADAMS Accession No. ML18045A084), Exelon revised its estimate for permanent cessation of operations to no later than October 31, 2018. By letter dated September 25, 2018 (ADAMS Accession No. ML18268A258), Exelon certified to the NRC that it had permanently ceased operations at

Oyster Creek on September 17, 2018. In this letter, the licensee also provided notification to the NRC under 10 CFR 50.82(a)(1)(ii) that, as of September 25, 2018, all fuel has been permanently removed from the Oyster Creek reactor vessel and placed in the SFP. Exelon stated that spent fuel was being stored in the SFP and the independent spent fuel storage installation. Further, Exelon confirmed its understanding that, under 10 CFR 50.82(a)(2), the Oyster Creek 10 CFR Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel.

By letter dated April 12, 2018 (ADAMS Accession No. ML18102A030), Exelon requested rescission of Order EA-12-051, to be effective upon the docketing of the 10 CFR 50.82(a)(1)(i) and (ii) certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel.

The licensee's letter dated April 12, 2018, asserts that good cause exists to rescind the requirements of Order EA-12-051. The licensee's letter observes that Section III of the Order states that the Commission determined that all power reactor licensees and construction permit holders must have a reliable means of remotely monitoring wide-range SFP levels to support effective prioritization of event mitigation and recovery actions in the event of a beyond-design-basis external event. According to the licensee, this statement forms the basis of the Order and reflects the need to effectively deploy limited resources to mitigate very low frequency events with the potential to challenge both the reactor and the SFP. The licensee further states that after Oyster Creek is permanently shut down and defueled, decision-makers would not have to prioritize event mitigation and recovery actions; the focus of the facility staff would be the SFP condition.

Because the licensee for Oyster Creek has docketed the 10 CFR 50.82(a)(1)(i) and (ii) certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel, and has acknowledged, consistent with 10 CFR 50.82(a)(2), that the Oyster Creek 10 CFR Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel, the NRC staff finds that the safety of the fuel in the SFP becomes the primary safety function for site personnel. In the event of a challenge to the safety of fuel stored in the SFP, the focus of the facility staff would be the SFP condition, without the possibility of a concurrent challenge to the reactor and primary containment safety functions. Thus, in the event of a beyond-design-basis external event, effective prioritization of event mitigation and recovery actions would be simplified, and the application of the Order requirements would no longer be necessary to serve the Order's underlying purpose.

Based on the above, the NRC staff concludes that the licensee has demonstrated good cause for the withdrawal of Order EA-12-051. Accordingly, the NRC is withdrawing its March 12, 2012, Order EA-12-051 with respect to Oyster Creek. All other regulatory requirements remain applicable and are not impacted by this withdrawal.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ho K. Nieh', with a long horizontal stroke extending to the right.

Ho K. Nieh, Director
Office of Nuclear Reactor Regulation

Docket No. 50-219

cc: Listserv

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ADAMS Accession No.: ML18176A070

***via email**

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NAME	BTitus	BTitus	ABoland
DATE	9/29/2018	9/28/2018	10/2/2018
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