special circumstances exist as discussed in Section 3.0 above, and granting this exemption will not present an undue risk to the public health and safety and is consistent with the common defense and security.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants Arizona Public Service Company, *et al.,* an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50, appendix K, for Palo Verde Nuclear Generating Station, Unit 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 52644).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 16th day of October 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–26694 Filed 10–22–01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–454, STN 50–455, STN 50–456, STN–50–457]

Exelon Generation Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–37, NPF–66, NPF–72, and NPF–77, issued to Exelon Generation Company, LLC (the licensee), for operation of the Byron Station, Units 1 and 2 located in Ogle County, Illinois, and Braidwood Station, Units 1 and 2, located in Will County, Illinois.

The proposed amendment would revise technical specification (TS) 3.7.2, ''Main Steam Isolation Valves'' (MSIV). TS surveillance requirement (SR) 3.7.2.1 and 3.7.2.2 would be revised for Byron and Braidwood to allow these requirements not to be met until the first startup after September 27, 2001. By letter dated October 1, 2001, the licensee requested that the Nuclear Regulatory Commission (NRC) exercise discretion not to enforce compliance with the actions required in Byron Station, Unit 1 and 2, and Braidwood Station, Unit 2, TS. While reviewing the SRs section of the Bases for SR 3.7.2.1 and SR 3.7.2.2. in support of Braidwood Station, Unit 1 refueling outage activities, the licensee discovered that the existing surveillance procedures were inconsistent with the TS Bases. During start-up following the last refueling outages at Braidwood Station, Units 1 and 2, and Byron Station Units 1 and 2, SR 3.7.2.1 and SR 3.7.2.2 were performed in Mode 4 and not in Mode 3 as required by the TS. The existing surveillance procedures for SR 3.7.2.1 and 3.7.2.2 allow testing in Mode 3, 4, or 5.

The licensee stated that on September 27, 2001, 4 p.m. CDT (5 p.m. EDT), the plants would not be in compliance with SR 3.7.2.1 and SR 3.7.2.2, which would require Braidwood Station, Unit 2, and Byron Station, Units 1 and 2, to be in Mode 3 within the next 7 hours. A Notice of Enforcement Discretion (NOED) was requested pursuant to the NRC's policy regarding exercise of discretion for an operating facility, set out in Section VII.*C.* of the ''General Statement of Policy and Procedures for NRC Enforcement Actions'' (Enforcement Policy), NUREG–1600, to be effective for the period until the first startup after September 27, 2001. The NOED was granted to the licensee on October 3, 2001, requiring an exigent amendment to be issued within 4 weeks of this date.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means 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; or (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. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

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

MSIV closure is the initiator of the Inadvertent MSIV Closure event. Operation of the affected units with MSIVs tested in Mode 4 instead of Mode 3 will not affect the probability of an inadvertent MSIV closure event, since the only effect would be to potentially delay to closure of the MSIVs. The MSIVs Original Equipment Manufacturer (OEM) was contacted regarding the effect of system conditions on MSIV stroke times. The OEM indicated that the most significant impact on stroke time is main steam flow. The OEM also indicated that impact due to MSL pressures alone resulted in little change to valve closure time. According to the OEM, a few tenths of a second is added to full design steam line pressure stroke test versus stroke tests as performed without line pressure. The OEM's basis for these statements was from testing that was performed during the production of these and similar MSIVs. Any delay in closure time will mitigate the effects of the resulting pressure transient caused by the inadvertent closure of the MSIV. There are no modifications to the hardware associated with accomplishing the closure functions. Therefore there is no increase in the probability of the Inadvertent MSIV closure event. The safety function of the MSIVs is to close in the event of a high energy line break or to be closed in the event of a steam generator tube rupture. These are mitigative actions and are not initiators to any other accident scenario previously analyzed in the updated final safety analysis report. Therefore, the proposed change will not increase the probability of any other previously analyzed accident.

The consequences of previously analyzed accidents will not be significantly increased. Based on past data related to closure time, and vendor information stating that the valve stroke time impact due to increase in steam line pressure is on the order of a few tenths of a second, we have reasonable assurance the valves will still function within the assumed analysis time, thereby maintaining the analyzed dose consequence for the steam line break and feedline break accident analyses. The MSIVs will still function as assumed for the steam generator tube rupture event, in that the valves will function in response to operator action. Therefore, no additional source term is added to the steam generator tube rupture analysis and the consequence resulting from that event are not increased.

Therefore, due to the limited effect the deficient testing has on the valve stroke time and the appreciable margin between the required stroke time and the assumed isolation time in the limiting analyses, the probability of occurrence and consequences of any accident previously analyzed are not significantly increased.

2. Does the proposed change create the possibility of a new or different kind of

accident from any accident previously evaluated?

The proposed action does not involve physical alteration of the units. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. There is no change being made to the parameters within which the units are operated. There are no setpoints at which protective or mitigative actions are initiated that are affected by this proposed action. This proposed action will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. The surveillance procedures for stroke time testing the MSIVs will be revised to ensure the MSIVs are tested in Mode 3. This change does not impact normal operation of the MSIVs. In addition, no alteration in the procedures, which ensure the units remain within analyzed limits, is proposed, and no change is being made to procedures relied upon to respond to an off-normal event. As such, no new failure modes are being introduced. The proposed action does not alter assumptions made in the safety analysis. Therefore, the proposed action does not create the possibility of a new or different kind of accident from any accident previously evaluated.

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

The proposed action does not involve a significant reduction in the margin of safety. The margin of safety is assured by the operation of the plant within the prescribed parameters and by the diverse and redundant protection afforded by the Reactor Protection System (RPS) and Engineered Safety Feature Actuation System (ESFAS). The identified testing deficiency does not affect the parameters within which the unit is maintained, and is not detrimental to the actuation of the RPS or ESFAS functions. Reasonable assurance is provided that the MSIVs will achieve full closure within the required time interval. As noted above, there is additional margin between the required isolation time and that assumed in the limiting accident analysis.

Therefore, based on the above evaluation, we have concluded that the proposed changes do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 23, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html.* If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these

requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Edward J. Cullen Jr., Vice President and General Counsel, Exelon Generation Company, LLC, 300 Exelon Way KSB 3–W, Kennett Square, PA 19348, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 17, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 17th day of October 2001.

For the Nuclear Regulatory Commission.

Mahesh Chawla,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–26693 Filed 10–22–01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on November 8–10, 2001, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Friday, November 17, 2000 (65 FR 69578).

Thursday, November 8, 2001

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10 A.M.: Final Review of the Hatch License Renewal Application (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Southern Nuclear Operating Company regarding the license renewal application for the Edwin I. Hatch Nuclear Plant Units 1 and 2, and the associated NRC staff's final Safety Evaluation Report (SER).

10:20 A.M.–12:30 P.M.: Dresden and Quad Cities Core Power Uprate (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Exelon Generation Company regarding the license amendment request to increase the core thermal power level for Dresden Nuclear Power Station Units 2 and 3 and the Quad Cities Nuclear Power Station Units 1 and 2, and the associated NRC staff's SER.

[**Note:** A portion of this session may be closed to discuss General Electric Nuclear Energy proprietary information applicable to this matter.]

1:30 P.M.–3:30 P.M.: Safety Research Program (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Office of Nuclear Regulatory Research regarding the vision and expectations of the NRC Safety Research Program.

3:50 P.M.–5 P.M.: Proposed Update to 10 CFR part 52 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed update to 10 CFR part 52 that is based on experience gained from previous design certification reviews and discussions with stakeholders on the early site permit and combined license processes.

5:15 P.M.–7 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting as well as proposed reports on Final Review of the Hatch License Renewal Application, Dresden and Quad Cities Core Power Uprate, and Proposed Update to 10 CFR part 52.

Friday, November 9, 2001

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:30 A.M.: Circumferential Cracking of PWR Vessel Head Penetrations (Open)—The Committee will hear a presentation by and hold discussions with representatives of the NRC staff regarding the status of staff activities associated with resolving issues related to circumferential cracking of pressurized water reactor (PWR) vessel head penetrations, including control rod drive mechanism nozzles.

10:50 A.M.–12:15 P.M.: Licensing Approach for the Pebble Bed Modular Reactor Design (Open)—The Committee will hear remarks by Dr. Kress and Dr. Powers regarding the October 10–12, 2001 future plant design workshop organized by the NRC Office of Nuclear Regulatory Research. Also the Committee will hear a presentation by and hold discussions with representatives of the NRC staff regarding the licensing approach for the Pebble Bed Modular Reactor design.