

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-237 and 50-249]

Exelon Generation Company, LLC; Dresden Nuclear Power Station, Units 2 and 3 Exemption

1.0 Background

The Exelon Generation Company, LLC, (Exelon, or the licensee) is the holder of Facility Operating License Nos. DPR-19 and DPR-25, which authorizes operation of the Dresden Nuclear Power Station (DNPS), Units 2 and 3, respectively. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two boiling water reactors located in Grundy County, Illinois.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, section 50.55a(g)(6)(ii)(A)(2) incorporates American Society of Mechanical Engineers (ASME) Code, Section XI, Table IWB-2500-1. Item B1.12 of ASME code, Section XI, Table IWB-2500-1 requires that all longitudinal reactor pressure vessel (RPV) shell welds be inspected during each ten-year inspection interval. Additionally, item B1.30 requires that the shell-to-flange weld be inspected during each inspection interval.

In its submittal dated June 12, 2001, as supplemented by a letter dated July 23, 2001, the licensee requested an exemption from the ASME Code, Section XI requirements, items B1.12 and B1.30 of Table IWB-2500-1. The licensee requested a one cycle extension of the requirement to inspect the RPV welds for the Dresden Units 2 and 3 per the provisions of 10 CFR 50.55a(a)(3)(ii). Specifically, the licensee concluded that compliance with the specified requirements of this section would result in hardship or unusual difficulty without a compensating increase in the level of quality and safety.

Until recently, the licensee intended to use standard inspection techniques on RPV welds during the upcoming (17th) refueling outages for both units. The outages are scheduled for October 2001 and September 2002 for Units 2 and 3, respectively. Using standard equipment, the licensee projects that they would be able to inspect approximately 60 percent of the length of vertical welds.

In order to improve and increase their capability to perform RPV weld examinations, the licensee proposes to implement the AIRIS 21 system. The AIRIS 21 system is a nondestructive examination (NDE) tool developed by IHI Southwest Technologies (ISWT). The licensee proposes to have ISWT install the new system and inspect vertical welds along the lower beltline course as well as the shell-to-flange weld during the 17th refueling outage for both units. Coverage of the lower beltline course is not obtainable using standard inspection techniques. Using the AIRIS 21 system, the licensee anticipates examining 14 of the 18 vertical welds as well as the shell-to-flange weld during the upcoming 17th refueling outage for both units. Approximately 90 percent of the shell-to-flange weld is expected to be examined while 50 to 100 percent of the vertical welds are expected to be examined. The licensee expects to complete examinations for the remaining four vertical welds using the AIRIS 21 system in the 18th refueling outage for both units.

The AIRIS 21 device will require additional refueling bridge support. Therefore, in order to inspect all of the welds required by the ASME Code during the 17th refueling outages, outage time would be increased by 64 hours according to the licensee's estimates. The licensee concludes that this considerable extension in outage time presents undue hardship.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. According to 10 CFR 50.12(a)(2)(iii), special circumstances are present whenever compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted. The requested scheduler exemption is required to prevent an extended shutdown of the facility for the purpose of conducting RPV inservice examinations. In addition, according to 10 CFR 50.12(a)(2)(v), special circumstances are also present whenever the exemption would provide only temporary relief from the applicable regulation. The requested exemption is only needed for eight

months for Unit 2 and 24 months for Unit 3 to achieve increased inspection coverage without an outage schedule impact.

As described in the staff's safety evaluation dated September 28, 2001, the staff finds that the deferral of the examinations of RPV welds for one cycle will not present undue risk to the public and the AIRIS 21 system is expected to result in a more complete inspection during future outages. The safety evaluation 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. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, <http://www.nrc.gov> (the Electronic Reading Room).

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 Exelon an exemption from the requirements of 10 CFR 50.55a(g)(6)(ii)(A)(2) for Dresden Nuclear Power Station, Units 2 and 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 49713).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 28th day of September 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

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

[FR Doc. 01-24999 Filed 10-4-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of October 8, 2001:

A closed meeting will be held on Tuesday, October 9, 2001, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matter may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matter at the closed meeting.

The subject matter of the closed meeting scheduled for Tuesday, October 9, 2001, will be:

Institution of an administrative proceeding of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: October 2, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01-25125 Filed 10-2-01; 4:10 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [66 FR 49727, September 28, 2001].

STATUS: Open Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Wednesday, October 3, 2001 at 10 a.m.

CHANGE IN THE MEETING: Deletion of Item.

The following item will not be considered at the open meeting scheduled for Wednesday, October 3, 2001: Final Rule Amendments to Broker-Dealer Books and Records Rules 17a-3 and 17a-4 Under the Securities Exchange Act of 1934.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: October 2, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01-25126 Filed 10-2-01; 4:31 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 44874/September 28, 2001]

Securities Exchange Act of 1934; Exemptive Order Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934 Issuing Exemptive Relief To Respond to Market Developments

Section 36 of the Securities Exchange Act of 1934 (Exchange Act) authorizes the Commission, by rule, regulation, or order, to exempt, either conditionally or unconditionally, any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions or provisions of the Exchange Act or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

Following the events of September 11, 2001, trading in the equity and options markets halted for four days. To facilitate the reopening of trading, the Commission, recognizing that purchases by registrants of their own securities can represent an important source of liquidity to maintain fair and orderly markets, used its authority under section 12(k)(2) of the Exchange Act to relax certain regulatory provisions to permit additional flexibility in making such purchases.¹ While there is no longer an emergency and the markets are functioning well, nonetheless, under the current highly unusual circumstances, it continues to be useful to facilitate issuers repurchases to enhance orderly markets. We believe that this exemption providing similar relief is appropriate in the public interest. This exemption, particularly in light of the other provisions of Rule 10b-18 that remain applicable and its limited duration, is consistent with the protection of investors.

Accordingly, *It is Ordered*, pursuant to section 36 of the Exchange Act, that,

In connection with a Rule 10b-18 purchase² or with a Rule 10b-18 bid that is made during the period covered by this Order by the use of any means

or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, an issuer, or an affiliated purchaser of the issuer, shall not be deemed to have violated section 9(a)(2) of the Exchange Act or Rule 10b-5 under the Exchange Act, solely by reason of the time or price at which its Rule 10b-18 bids or Rule 10b-18 purchases are made or the amount of such bids or purchases or the number of brokers or dealers used in connection with such bids or purchases if the issuer or affiliated purchaser of the issuer meets all of the conditions in Rule 10b-18³ with the exception that:

1. The timing condition in paragraph (b)(2) may be satisfied by an issuer whose security has an average daily trading volume (ADTV) value of \$1,000,000 or more and a public float value of \$150 million or more if that issuer effects purchases that (a) do not constitute the opening transaction in the security, and (b) occur up to the ten minutes before the scheduled close of trading on the primary market for such security; and

2. The volume condition of paragraph (b)(4) may be satisfied if the issuer makes all Rule 10b-18 purchases other than block purchases of a reported or exchange traded security in an amount that, when added to the amount of all other Rule 10b-18 purchases, other than block purchases, from or through a broker or dealer effected by or for the issuer or an affiliated purchaser of the issuer on that day, does not exceed 100 percent of the trading volume (excluding the week of September 10, 2001 from the four week calculation) for that security;⁴ and

It is Further Ordered that,

Notwithstanding the pooling-of-interest provisions in the Accounting Principles Board Opinion No. 16, *Business Combinations*, and the related interpretations of the American Institute of Certified Public Accountants,

³ All other conditions of Rule 10b-18 remain in effect, including the timing condition with respect to issuers whose securities do not meet the \$1,000,000 average daily trading volume (ADTV) value and \$150 million public float test stated in paragraph 1 above. ADTV and public float shall be determined in a manner consistent with 17 CFR 242.100. This Order is separate from the Emergency Order issued on September 14, 2001 and extended on September 21, 2001. Securities Exchange Act Release No. 44791 (September 14, 2001); Securities Exchange Act Release No. 44827 (September 21, 2001).

⁴ The four-week trading volume calculation excludes the week of September 10, 2001. For example, if an issuer's Rule 10b-18 purchases occur on October 2, 2001, the four calendar week trading volume calculation should be determined using the calendar weeks beginning on August 27th, September 3rd, September 17th, and September 24th.

¹ Securities Exchange Act Release No. 44791 (September 14, 2001). Securities Exchange Act Release No. 44827 (September 21, 2001).

² Terms used in this order have the same meaning as those terms used in Exchange Act Rule 10b-18 unless stated otherwise.