

“application”), Yankee Atomic notified the Nuclear Regulatory Commission (NRC or the Commission) of the pending merger of Northeast Utilities and NSTAR (each current indirect minority co-owners of 38.5 percent and 14 percent, respectively, of Yankee Atomic) and requested that, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and Title 10 of the Code of Federal Regulations (10 CFR) 50.80, the NRC consent to the indirect transfer of control of License No. DPR-3 for the Yankee Nuclear Power Station, to the extent effected by the pending merger of Northeast Utilities and NSTAR.

The increase in ownership by Northeast Utilities of Yankee Atomic would be the result of several transactions to be executed pursuant to a Merger Agreement, dated October 16, 2010, as amended on November 1, 2010, among Northeast Utilities, NSTAR and certain subsidiaries of Northeast Utilities. The transactions involve mergers of NSTAR and special-purpose subsidiaries of Northeast Utilities, which will result in NSTAR merging into a subsidiary of Northeast Utilities and becoming a wholly-owned subsidiary of Northeast Utilities. This subsidiary will be renamed “NSTAR LLC.” The corporate organizational and ownership structure of all the other subsidiaries of Northeast Utilities and NSTAR will not be affected by the merger—those subsidiaries that are currently owned by Northeast Utilities will continue to be owned by Northeast Utilities and in the same ownership percentage after the merger, and those that are currently owned by NSTAR will be owned by the renamed entity, NSTAR LLC, and in the same ownership percentage after the merger as before the merger.

Following the proposed merger, Northeast Utilities, the surviving company, will have an indirect ownership of 52.5 percent of Yankee Atomic through its subsidiaries, The Connecticut Light and Power Company, Public Service Company of New Hampshire, Western Massachusetts Electric Company, and NSTAR Electric Company. Yankee Atomic will continue to operate the facility and hold the license.

No physical changes to the Yankee Nuclear Power Station facility or operational changes are being proposed in the application.

Approval of the transfer of the license is requested by the applicant pursuant to 10 CFR 50.80. Notice of the request for license transfer, opportunity to comment, and opportunity to request a hearing was published in the **Federal**

**Register** on July 14, 2011 (76 FR 41532). No comments or hearing requests were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations contained in the application, the NRC staff has determined that the proposed indirect transfer of control of the subject license, to the extent which will result from the proposed merger of Northeast Utilities and NSTAR, will not affect the technical or financial qualifications of the licensee and is otherwise consistent with applicable provisions of law, regulations, and Orders issued by the NRC, pursuant thereto, subject to the condition set forth below.

The findings set forth above are supported by the NRC staff’s safety evaluation (SE) dated December 20, 2011.

### III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the AEA, 42 U.S.C. Sections 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect license transfer related to the proposed merger of Northeast Utilities and NSTAR, as described herein, is approved, subject to the following condition:

Within thirty (30) days following consummation of the proposed merger, Northeast Utilities, via its post-merger subsidiaries, The Connecticut Light and Power Company, Western Massachusetts Electric Company, Public Service Company of New Hampshire, and NSTAR Electric Company, who together will exercise majority control, will call for votes directing that Yankee Atomic approve a negotiation action plan consistent with the requirements of 10 CFR 50.38 and implement said plan within 30 days of the vote, and directing that records of the votes, reflecting the vote of each representative and the stock holder company represented, be forwarded to the NRC within seven (7) days of the vote, and be made available to the public.

*It is further ordered* that Yankee Atomic shall inform the Director of the Office of Nuclear Material Safety and Safeguards, in writing, of the date of closing of the merger between Northeast Utilities and NSTAR at least one business day before the closing. Should the transfer of the license not be completed within one year of this Order’s date of issuance, this Order shall become null and void, provided,

however, that upon written application and for good cause shown, such date may be extended by Order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated December 6, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML103490133), as supplemented by letters dated on March 16 (ML110770022), May 16 (ML11139A088), June 8 (ML11166A124), August 16 (ML11235A723), August 24 (ML11243A087), and August 25, 2011 (ML112490526), and the SE dated December 20, 2011 (ML113270127), which are available for public inspection at the Commission’s Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Room O-1 F21 (First Floor), Rockville, Maryland, and accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-(800) 397-4209 or (301) 415-4737, or by email at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 20th day of December, 2011.

**Daniel H. Dorman,**

*Acting Director, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219; NRC-2011-0287]

**Exelon Generation Company, LLC,  
Oyster Creek Nuclear Generating  
Station; Exemption**

### 1.0 Background

The Exelon Generation Company, LLC (the licensee) is the holder of Facility Operating License No. DPR-16, which authorizes operation of the Oyster Creek Nuclear Generating Station (OCNGS). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect. The facility consists of a boiling-water reactor located in Ocean County, New Jersey.

## 2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Appendix E, Section IV.F.2.c requires that "Offsite plans for each site shall be exercised biennially with full participation by each offsite authority having a role under the radiological response plan." By letter dated September 30, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML112730283), the licensee requested a one-time exemption from this requirement that would allow the licensee to delay conduct of certain offsite portions of a biennial emergency preparedness (EP) exercise from September 27, 2011, to June 2012. The licensee's request states that Hurricane Irene passed through New Jersey on August 28, 2011, causing widespread damage and flooding in the surrounding area, and that the event required the response of the New Jersey State Office of Emergency Management (OEM), the Ocean County OEM, numerous other state departments, and the Division of State Police.

Because of its ongoing response to and recovery from Hurricane Irene, the New Jersey OEM and Ocean County OEM requested that OCNCS reschedule specific functions of the offsite portion of the biennial EP exercise scheduled for September 27, 2011. The licensee states in their request that the New Jersey OEM has indicated that it is not feasible to reschedule the specific offsite functions that remain to be exercised prior to the end of calendar year (CY) 2011.

In a letter to the Federal Emergency Management Agency (FEMA) dated August 29, 2011, (ADAMS Accession No. ML112800560), the New Jersey State OEM requested that FEMA postpone the exercise until 2012, citing the ongoing response to the Hurricane Irene aftermath. By letter dated August 31, 2011 (Attachment 3 to ADAMS Accession No. ML112730283), FEMA responded favorably to the New Jersey OEM request by agreeing to postpone the offsite portions of the biennial exercise until 2012.

The onsite portion and some aspects of the offsite portions of the exercise were conducted on September 27, 2011. These portions were inspected by the NRC and evaluated by FEMA. The NRC's inspection of the September 27, 2011, exercise, documented in Inspection Report 05000219/2011502 dated November 9, 2011 (ADAMS Accession No. ML113130149), identified no findings.

## 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, appendix E, 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.

### *Authorized by Law*

This exemption would allow the licensee and offsite response organizations to accommodate Hurricane Irene's impacts upon their resources by postponing the select functions of the offsite portion of the exercise from the previously scheduled date of September 27, 2011, until June 2012.

As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR part 50, appendix E. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

### *No Undue Risk to Public Health and Safety*

The underlying purpose of 10 CFR part 50, appendix E, section IV.F.2.c is to ensure that licensees test and maintain interfaces among themselves and affected State and local authorities during the intervals between biennial EP exercises by conducting emergency preparedness activities and interactions. In order to accommodate the scheduling of full participation exercises, the NRC has allowed licensees to schedule the exercises at any time during the calendar biennium. Conducting the remaining offsite portions of the OCNCS full-participation exercise by June 2012, rather than CY 2011, places the exercise outside of the required biennium. Since the last biennial EP exercise on October 6, 2009, the licensee has conducted 16 training drills/exercises/demonstrations and 32 training sessions that have involved interface with State and local authorities. These drills and training sessions did not exercise all of the proposed rescheduled offsite functions, but they do support the licensee's assertion that it has a continuing level of engagement with the State and local authorities to maintain interfaces. The NRC staff considers the intent of this requirement is met by having conducted

these series of drills and training sessions.

Based on the above, no new accident precursors are created by allowing the licensee to postpone the selected offsite portions of the exercise from CY 2011 until 2012. Thus, the probability and consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

### *Consistent with Common Defense and Security*

The proposed exemption would allow rescheduling of the specific offsite portions of the biennial EP exercise from the previously scheduled date of September 27, 2011, until June 2012. This change to the EP exercise schedule has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

### *Special Circumstances*

In order to grant exemptions in accordance with 10 CFR 50.12, special circumstances must be present. Special circumstances per 10 CFR 50.12 that apply to this exemption request are 10 CFR 50.12(a)(2)(ii) and (v). Special circumstances, per 10 CFR 50.12(a)(2)(ii), are present when: "Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule." Section IV.F.2.c of 10 CFR part 50, appendix E requires licensees to exercise offsite plans biennially with full or partial participation by each offsite authority having a role under the plan. The underlying purposes of 10 CFR part 50, appendix E, section IV.F.2.c requiring licensees to exercise offsite plans with offsite authority participation is to test and maintain interfaces among affected State and local authorities and the licensee. At the previous biennial EP exercise conducted on October 6, 2009, FEMA identified one planning deficiency when several municipalities did not receive notice of a Protective Action Decision (letter dated November 3, 2009, ADAMS Accession No. ML093070475). Per FEMA letters dated February 24, 2010, and June 22, 2010 (ADAMS Accession Nos. ML102590007 and ML110341597, respectively), FEMA informed the New Jersey State OEM and the NRC that the deficiency had been successfully corrected by demonstration at a remedial drill conducted on January 28, 2010. Since the licensee has conducted 16 training drills/exercises/demonstrations and 32 training sessions that have involved interface with State and local authorities in 2010 and 2011,

and has supported the FEMA evaluation of the State and local authorities at the biennial exercise in 2009 and at the remedial drill in 2010, the NRC staff considers that these measures are adequate to test and maintain interfaces with affected State and local authorities during this period, satisfying the underlying purpose of the rule.

Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation. Due to the scheduled biennial EP exercise on September 27, 2011, the 16 training drills/exercises/demonstrations conducted in 2010 and 2011, and the licensee's support of the FEMA evaluation of some aspects of the offsite portion of the September 27, 2011 exercise, the NRC staff considers the licensee to have made good faith efforts to comply with the regulation. Also, the requested exemption to conduct the onsite EP exercise in 2012 instead of 2011 would grant only temporary relief from the applicable regulation. Therefore, since the underlying purpose of 10 CFR part 50, appendix E, section IV.F.2.c is achieved, the licensee has made a good faith effort to comply with the regulation, and the exemption would grant only temporary relief from the applicable regulation, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and (v) exist for the granting of an exemption.

#### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission, hereby grants Exelon Generation Company, LLC an exemption from the requirements of 10 CFR part 50, appendix E, section IV.F.2.c to conduct the offsite portion of the OCNBS biennial EP exercise required for 2011, permitting that part of the exercise to be conducted in coordination with NRC Region I and OCNBS schedules by the end of June 2012.

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 (76 FR 79227, December 21, 2011).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of December 2011.

For The Nuclear Regulatory Commission.

**Michele G. Evans,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2011-33683 Filed 12-30-11; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[NRC-2011-0289]

### Applications and Amendments to Facility Operating Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment request; opportunity to comment and request a hearing, order.

**DATES:** Comments must be filed by February 2, 2012. A request for a hearing must be filed by March 5, 2012. Any potential party as defined in Title 10 of the Code of Federal Regulations (10 CFR) 2.4 who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by January 13, 2012.

**ADDRESSES:** Please include Docket ID NRC-2011-0289 in the subject line of your comments. For additional instructions on submitting comments and instructions on accessing documents related to this action, see "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0289. Address questions about NRC dockets to Carol Gallagher, telephone: (301) 492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

- *Fax comments to:* RADB at (301) 492-3446.

**SUPPLEMENTARY INFORMATION:**

### Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-(800) 397-4209, (301) 415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- *Federal Rulemaking Web Site:* Public comments and supporting materials related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0289.

### Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a