

EXHIBIT A

Section 316(a) Determination

- a. The Department is hereby granting a Section 316(a) variance for the facility's cooling water discharge. This determination is based on the Department's findings that: (1) the facility's operations have not changed appreciably since the time that the 1994 NJPDES permit was issued; (2) cooling water flow rates have remained relatively constant; and (3) the Department has not received information that would cause the Department to reconsider the variance at this time.
- b. Part IV.G.2.g shall be revised as follows:

The Permittee shall comply with "Option 2 Limits" for outfall DSN 001A during an Emergency Condition as declared by the PJM Interconnection Office of Information Dispatcher, including Capacity, Weather/Environmental, Sabotage/Terrorism, and Transmission Security Emergencies as such terms are defined in the PJM Interconnection Emergency Operations Manual M-13, Emergency Operations, Revision 41, effective October 1, 2010, provided that the number of days per year when such Emergency Conditions apply shall not exceed 20. Within eight hours of the Permittee being advised by PJM that Emergency Operations are required, the Permittee shall notify DEP's Central Bureau of Water Compliance and Enforcement by telephone that the Station has invoked the use of the alternate thermal limits of the permit. This provision keeps the permit consistent with changes in the PJM Manual that have occurred since the issuance of the 1994 permit.

Section 316(b) Determination

- a. Based upon the following factors, the Department has determined that the best technology available determination in accordance with its best professional judgment is as follows:
 - i. Pursuant to the December 9, 2010 Administrative Consent Order ("ACO"), Exelon is legally required to Terminate Operations, as that term is defined in the ACO, no later than December 31, 2019. As a direct result of this requirement, the Department has determined that closed cycle cooling is not the best technology available given the length of time that would be required to retrofit from the existing once-through cooling system to a closed-cycle cooling system and the limited life span of the facility after implementation of the closed-cycle cooling system. The facility has physical limitations which constrain the location and types of closed-cycle cooling systems that could be installed. As stated in the January 7, 2010 draft permit, the length of time required to design, permit and construct closed-cycle cooling technology at

the facility would likely be at least seven years and would involve significant costs.

- ii. In consideration of the required Termination date, the Department has determined, in its best professional judgment, that the Station's existing once-through cooling system, which is equipped with a number of existing measures to reduce impingement mortality and entrainment losses, including a system of Ristroph-type screens and fish handling mechanisms, is the best technology available for the facility's cooling water intake through Termination and with respect to Post-Termination activities described in paragraph I of the Findings of the ACO.
 - iii. If this permit is administratively extended and remains in effect as of January 1, 2020, beginning on that day the Permittee shall no longer be authorized to withdraw up to 662.4 million gallons per day (MGD) of non-contact cooling water through the Circulating Water Intake and up to 748.8 MGD of water through the Dilution Water Intake. Rather, on and after January 1, 2020, the Permittee shall reduce its surface water intake to the greater of 40,000 gallons per minute or the flow commensurate with that achievable using closed-cycle cooling. This requirement will also be set forth in any renewal of this NJPDES permit.
- b. In furtherance of the requirement to Terminate Operations on or before December 31, 2019, the following conditions shall be met:
- i. Permittee shall maintain the facility throughout its period of operation in a manner that ensures operation is fully in accord with its permits and consistent with the operating license issued by the USNRC;
 - ii. Permittee shall not sell or otherwise transfer the facility to another entity for use as a facility for generation of electric power except as provided in the ACO;
 - iii. Permittee shall apply for a renewal permit which also provides for the required Termination date of December 31, 2019 at least 180 days prior to the expiration of the final permit in accordance with N.J.A.C. 7:14A-4.2(e)3;
 - iv. Permittee shall not seek a modification of the NJPDES permit for operations beyond Termination, unless it can meet the intake flow conditions set forth in paragraph a.iii. of the Section 316(b) Determination above.
- c. Implementation Schedule
- i. Given that the Termination date of December 31, 2019 is the cornerstone of the BTA determination and hence a requirement of this NJPDES permit, the

Permittee shall take the following steps, within the time set forth, consistent with a process to Terminate Operations no later than December 31, 2019:

- a) Pursuant to USNRC regulations, Exelon shall submit written certification under oath or affirmation to the USNRC that the Oyster Creek Nuclear Generating Station (“OCGS”) will Terminate Operations within 30 days of the date of execution by the parties of this ACO;
- b) By December 31, 2013, Exelon shall certify to the Department’s Bureau of Surface Water Permitting that the fuel parameters and planning for the 2014 plant outages are to be based on a five-year period of operation ending on December 31, 2019, and not the standard six-year period;
- c) By December 31, 2014, Exelon shall take into account the Termination in the calculation of the anticipated decommissioning cost and earnings estimates for the Station, which shall be included in the biennial or annual reports regarding decommissioning funding assurance submitted to the USNRC;
- d) By December 31, 2014, Exelon shall include in the next biennial or annual report to the USNRC regarding decommissioning funding assurance the fact that Exelon intends to Terminate Operations on or before December 31, 2019, and shall have the anticipated decommissioning cost and earnings estimates reflect that date;
- e) By December 31, 2014, Exelon shall certify to the Department’s Bureau of Surface Water Permitting that the Station’s five-year outage schedule lists the 2018 outage as the final scheduled refueling outage;
- f) By May 31, 2016, Exelon shall certify to the Department’s Bureau of Surface Water Permitting that the Station’s output was not bid into the PJM capacity market auction for delivery after December 31, 2019;
- g) By December 31, 2018, Exelon shall submit the Post-Shutdown Decommissioning Activities Report (“PSDAR”) to the USNRC based on the December 31, 2019 Termination, in accordance with 10 CFR 50.82(a)(4)(i); and
- h) After Termination, Exelon may retain spent fuel, high-level waste, and other materials in the Station’s pressure vessel and/or spent fuel pool, as authorized by the Station’s NRC license, for a period of time that is consistent with USNRC regulations and license requirements. Once the U.S. Department of Energy (“DOE”) begins accepting waste for handling in a long-term disposal or other facility, Exelon will request that DOE expeditiously remove the fuel rods from the Station site. Exelon’s request will be consistent with the terms of the Standard Contract (see 10 CFR

Part 961, Subpart B) and any settlement thereunder between DOE and Exelon.

d. Progress Reports

- i. Permittee shall submit to the Department's Bureau of Surface Water Permitting annual progress reports that shall outline progress toward Termination. Progress Reports shall be submitted according to the following schedule:
 - a) Submit an Implementation Schedule Progress Report: within 12 months from the effective date of the permit (EDP).
 - b) Submit an Implementation Schedule Progress Report: within 24 months from the effective date of the permit (EDP).
 - c) Submit an Implementation Schedule Progress Report: within 36 months from the effective date of the permit (EDP).
 - d) Submit an Implementation Schedule Progress Report: within 48 months from the effective date of the permit (EDP).
 - e) Submit an Implementation Schedule Progress Report: within 60 months from the effective date of the permit (EDP).