



State of New Jersey

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Bradley M. Campbell
Commissioner

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U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555

Ladies and Gentlemen:

Subject: Oyster Creek Nuclear Generating Station
Docket No. 50-219
Exelon Request for Exemption from 10 CFR 2.109(b) and 10 CFR 50.75(f)(2)

By letters dated April 30, 2002 and June 21, 2002, Exelon Nuclear requested an exemption from 10CFR2.109(b) and 10CFR50.75(f)(2) for the Oyster Creek Nuclear Generating Station.

The first regulation, 10CFR2.109(b), requires a license renewal application to be filed 5 years prior to the expiration of the current license in order for an existing license to extend beyond its termination date, if the NRC's review extends beyond the license termination date. In other words, this provides the NRC a reasonable amount of time to conduct the license renewal and does not force the power plants to shut down, if the NRC takes longer than the license life of the plant to complete its review. The Oyster Creek license expires April 9, 2009. Exelon is seeking to be able to submit a license renewal application after April 9, 2004. The New Jersey Bureau of Nuclear Engineering does not support Exelon's exemption request for the following reasons:

1. If approved the exemption would place undefined time constraints on public review and stakeholder input and could pose an undue hardship to the stakeholders. These constraints may come at a time when other plants in New Jersey are undergoing a similar review.
2. The exemption request, if approved will be a precedent. If less than 5 years were required for the NRC to review a license extension request, then a rulemaking would be appropriate to change 10CFR2.109(b). The rulemaking process would provide for stakeholder input to establish an appropriate time.
3. The basis for the exemption, uncertain business conditions, is subjective and weak. Granting the exemption would reward Exelon from a business standpoint, without any demonstration of a real hardship created by meeting the regulation.

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The second regulation, 10CFR50.75(f)(2) requires each power reactor licensee to submit a preliminary decommissioning cost estimate at or about 5 years prior to the projected end of operations. Exelon is requesting an exemption from this regulation based on a lack of available resources for a decommissioning cost estimate due to uncertain business conditions. The purpose of knowing how much the license termination of a nuclear power plant will cost ahead of time is to make certain that enough money exists to pay for it. Since nuclear power plant decommissioning cost estimation is a mature business and 5 years is an appropriate and reasonable time horizon, we do not support the Exelon exemption.

Exelon states in their June 21, 2002 letter, "granting the exemption...will not endanger life or property or the common defense and security, will not have any significant environmental impacts, and otherwise in the public interest." We hope that if the NRC chooses to deny the exemption that you will be particularly vigilant to ensure that the denial will not endanger life or property or the common defense and security, and will not have any significant environmental impacts. In other words, if resources are needed to address the issues around extension of the operating license, the NRC should ensure that those resources are not at the expense of plant safety or the environment.

We look forward to discussing our comments further at your earliest convenience. Please contact Kent Tosch at (609) 984-7700.

Sincerely,



Kent Tosch, Manager
Bureau of Nuclear Engineering

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