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Dated at Rockville, Maryland, this 25th day of May 2006.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-346]

### FirstEnergy Nuclear Operating Company and FirstEnergy Nuclear Generation Corp.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of FirstEnergy Nuclear Operating Company and FirstEnergy Nuclear Generation Corp. (FENOC) to withdraw its May 22, 2005, application for proposed amendment to Facility Operating License No. NPF-3 for the Davis-Besse Nuclear Power Station (DBNPS), Unit 1, located in Ottawa County.

The proposed amendment would have revised the technical specifications pertaining to a qualified alternate repair criteria for axial tube end cracking indications in the DBNPS once through steam generator tubes. Specifically, the proposed amendment would revise the TS surveillance requirements for the steam generator inservice inspection to include tube end cracking alternate repair criteria.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 5, 2005 (70 FR 38720). However, by letter dated February 16, 2006, in response to Generic Letter 2006-01, "Steam Generator Tube Integrity and Associated Technical Specifications," FENOC committed to submit a license amendment application by May 31, 2006, proposing to amend the DBNPS TS to be consistent with TS Task Force (TSTF)-449, "Steam Generator Tube Integrity," Revision 4. Since this new license application will be incompatible with the changes proposed in the earlier license amendment application, by letter dated April 20, 2006, FENOC withdrew the May 22, 2005, amendment request. FENOC plans to resubmit the license amendment application at a later date.

For further details with respect to this action, see the application for amendment dated May 22, 2005, and the licensees' letter dated April 20, 2006, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 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/reading-rm.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 e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 25th day of May 2006.

For the Nuclear Regulatory Commission.

**Stephen J. Campbell,**

*Project Manager, Plant Licensing Branch III-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-454 and STN 50-455]

### Exelon Generation Company, LLC; Byron Station, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) section 50.44, 10 CFR 50.46, and 10 CFR part 50, Appendix K, for Facility Operating Licenses Nos. NPF-37 and NPF-66, issued to Exelon Generation Company, LLC (Exelon, the licensee), for operation of Byron Station, Units 1 and 2, located in Ogle County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

#### Environmental Assessment

##### Identification of the Proposed Action

The proposed action would allow the licensee to place four lead test assemblies containing a limited number of AXIOM™ fuel rods into the Byron Station, Unit 1, core during the fall 2006

refueling outage. The four lead test assemblies will be placed in non-limiting core locations. For subsequent cycles, two of the lead test assemblies will be placed into Byron Station, Unit 2, and two lead test assemblies will remain in Byron Station, Unit 1.

The proposed action is in accordance with the licensee's application dated September 23, 2005.

#### The Need for the Proposed Action

Pursuant to 10 CFR 50.12, "Specific exemptions," Exelon has requested exemptions from 10 CFR 50.44, "Combustible gas control for nuclear power reactors," 10 CFR 50.46, "Acceptance criteria for emergency core cooling systems [ECCS] for light-water nuclear power reactors," and Appendix K to 10 CFR part 50, "ECCS Evaluation Models." The regulation at 10 CFR 50.44 specifies requirements for the control of hydrogen gas generated after a postulated loss-of-coolant accident (LOCA) for reactors fueled with zirconium-clad fuel. Section 50.46 contains acceptance criteria for ECCS for reactors fueled with zircaloy or ZIRLO™ clad fuel. In addition, Appendix K to 10 CFR part 50 requires that the Baker-Just equation be used to predict the rates of energy release, hydrogen concentration, and cladding oxidation from the metal-water reaction.

The exemption request relates solely to the specific types of cladding material specified in these regulations. As written, the regulations presume the use of zircaloy or ZIRLO™ fuel rod cladding. Thus, an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR part 50 is needed to irradiate lead test assemblies employing AXIOM™ developmental clad alloys at Byron Station, Units 1 and 2.

The proposed action will use the irradiation of the lead test assemblies incorporating the developmental cladding to provide data on fuel and material performances to support future licensing activities.

#### Environmental Impacts of the Proposed Action

The NRC has completed its safety evaluation of the proposed action and concludes that specific application of the limitations on fuel cladding material in 10 CFR 50.44, 10 CFR 50.46, and 10 CFR part 50 Appendix K to the lead test assemblies is not necessary for the licensee to achieve their underlying purposes. In addition, the NRC staff has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to public health and safety, and is