



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

January 22, 2020

Mr. Bryan C. Hanson  
Senior Vice President  
Exelon Generation Company, LLC  
4300 Winfield Road  
Warrenville, IL 60555

SUBJECT: THREE MILE ISLAND NUCLEAR STATION, UNIT 1 – WITHDRAWAL OF ORDER EA-12-051, “ORDER MODIFYING LICENSES WITH REGARD TO RELIABLE SPENT FUEL POOL INSTRUMENTATION” (EPID L-2019-JLD-0019)

Dear Mr. Hanson:

By letter dated March 12, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12054A679), the U.S. Nuclear Regulatory Commission (NRC, the Commission) issued Order EA-12-051 to Exelon Generation Company, LLC (Exelon, the licensee). This order requires certain actions at Three Mile Island Nuclear Station, Unit 1 (TMI-1) associated with the Fukushima Near-Term Task Force recommendations. Specifically, Order EA-12-051 requires that reliable spent fuel pool (SFP) instrumentation be installed and maintained in the event of a beyond-design-basis external event.

Section IV of Order EA-12-051 (the Order) required that Exelon submit to the Commission for review an overall integrated plan by February 28, 2013, describing how TMI-1 will achieve compliance with the requirements of the Order. The licensee responded to the Order by letter dated February 28, 2013 (ADAMS Accession No. ML13063A540). By letter dated January 20, 2016 (ADAMS Accession No. ML16020A026), the licensee notified the NRC that full compliance with the Order had been achieved at TMI-1. The NRC staff issued a safety evaluation describing its review of the TMI-1 order compliance plan on February 14, 2017 (ADAMS Accession No. ML17025A409), and documented a compliance inspection at the TMI-1 site by letter dated September 11, 2017 (ADAMS Accession No. ML17255A131).

Section IV of the Order also stipulates that the NRC’s Director of the Office of Nuclear Reactor Regulation may, in writing, relax or rescind any of the conditions of the Order upon demonstration by the licensee of good cause.

By letter dated June 20, 2017 (ADAMS Accession No. ML17171A151), Exelon submitted to the NRC a certification of permanent cessation of operations for TMI-1 in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.82(a)(1)(i). In this letter, Exelon provided notification to the NRC of its intent to permanently cease operations at TMI-1 on or about September 30, 2019. By letter dated September 26, 2019 (ADAMS Accession No. ML19269E480), Exelon certified to the NRC that, as of September 26, 2019, all fuel has been permanently removed from the TMI-1 reactor vessel and placed in the SFP. Further, Exelon confirmed its understanding that, under 10 CFR 50.82(a)(2), the 10 CFR Part 50 license for TMI-1 no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel.

By letter dated November 11, 2019 (ADAMS Accession No. ML19315A004), Exelon requested withdrawal of Order EA-12-051. The request was based upon the docketing of the 10 CFR 50.82(a)(1)(i) and (ii) certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel.

The licensee's letter dated November 11, 2019, asserts that good cause exists to withdraw the requirements of Order EA-12-051. The licensee's letter observes that Section III of the Order states that the Commission determined that all power reactor licensees and construction permit holders must have a reliable means of remotely monitoring wide-range SFP levels to support effective prioritization of event mitigation and recovery actions in the event of a beyond-design-basis external event. According to the licensee, this statement forms the basis of the Order and reflects the need to effectively deploy limited resources to mitigate very low frequency events with the potential to challenge both the reactor and the SFP. The licensee further states that with TMI-1 permanently shut down and defueled, decision-makers would not have to prioritize actions and the focus of the facility staff would be the SFP condition.

The licensee for TMI-1 has docketed the 10 CFR 50.82(a)(1)(i) and (ii) certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel. In addition, the licensee has acknowledged, consistent with 10 CFR 50.82(a)(2), that the 10 CFR Part 50 license for TMI-1 no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel. The NRC staff finds that the safety of the fuel in the SFP has become the primary safety function for site personnel. In the event of a challenge to the safety of fuel stored in the SFP, the focus of the facility staff would be the SFP condition, without the possibility of a concurrent challenge to the reactor and primary containment safety functions. Thus, in the event of a beyond-design-basis external event, effective prioritization of event mitigation and recovery actions is simplified, and the application of the Order requirements is no longer necessary to serve the Order's underlying purpose.

Based on the above, the NRC staff concludes that the licensee has demonstrated good cause for the withdrawal of Order EA-12-051. Accordingly, the NRC is withdrawing its March 12, 2012, Order EA-12-051 with respect to TMI-1. All other regulatory requirements remain applicable and are not impacted by this withdrawal.

Sincerely,

***/RA Mirela Gavrilas for/***

Ho K. Nieh, Director  
Office of Nuclear Reactor Regulation

Docket No. 50-289

cc: Listserv

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**ADAMS Accession No.: ML19318E476**

**\*via email**

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