

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Dale E. Klein, Chairman
Edward McGaffigan
Jeffery S. Merrifield
Gregory B. Jaczko
Peter B. Lyons

DOCKETED 01/22/07
SERVED 01/22/07

_____)
In the Matter of)
)
EXELON GENERATION COMPANY, LLC) Docket No. 52-007-ESP
)
)
(Early Site Permit for Clinton ESP Site))
_____)

CLI-07-04

ORDER

Before the Early Site Permit for the Clinton ESP site can be made effective, the Commission must review and approve the Atomic Safety and Licensing Board's Initial Decision authorizing its issuance.¹ In support of our review, we direct the NRC Staff and applicant Exelon Generation Company, LLC, to respond to two specific issues raised by that order and to submit any other comments they deem pertinent to our review:

First, the Board issued its decision in LBP-06-28 subject to the modification of Permit Condition 3.² According to the Board's order, the Applicant agreed to this but the NRC Staff did not. Comments on the review should include the parties' position on this modification.

Second, the Board indicated that, had it not been constrained by our direction that the

¹ LBP-06-28, 64 NRC __ (Dec. 28, 2006). See 10 C.F.R. § 2.340(f)(2).

² See LBP-06-28, slip. op at 40.

Board must defer to the NRC Staff in factfinding matters, it would not have approved a review where the NRC Staff did not independently verify certain factual assertions made by the applicant.³ Comments on the review should also address this matter raised by the Board.

The NRC Staff and applicant are encouraged to include any other views on the Board's decision. Comments should be limited to twenty-five pages and filed no more than ten days from the date of this order.

IT IS SO ORDERED.

For the Commission

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, MD
this 22nd day of January, 2007

³ See *id.*, slip op. at 35-37.