

September 6, 2001

Mr. Oliver D. Kingsley, President  
Exelon Nuclear  
Exelon Generation Company, LLC  
200 Exelon Way, KSA 3-E  
Kennett Square, PA 19348

SUBJECT: PEACH BOTTOM ATOMIC POWER STATION, UNIT NOS. 2 AND 3,  
EXEMPTION FROM THE REQUIREMENTS OF 10 CFR 50.71(e)(4)  
(TAC NOS. MB2067 AND MB2068)

Dear Mr. Kingsley:

The Commission has approved the enclosed exemption from specific requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.71(e)(4), for the Peach Bottom Atomic Power Station (PBAPS), Unit Nos. 2 and 3. This action is in response to your letter dated May 30, 2001, that requested an exemption that would allow updates to the combined Updated Final Safety Analysis Report for PBAPS, Unit Nos. 2 and 3, to be submitted within 6 months following completion of each PBAPS Unit 2 refueling outage, not to exceed 24 months from the previous submittal.

A copy of the exemption is enclosed. The exemption is being forwarded to the Office of the Federal Register for publication.

Sincerely,

/RA/ Christopher Gratton for

John P. Boska, Project Manager, Section 2  
Project Directorate I  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-277 and 50-278

Enclosure: As stated

cc w/encl: See next page

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ACCESSION NUMBER: ML011780635

\*See previous concurrence

OFFICE	PM/PD1-2	LA/PD1-2	SC/PD1-2	D/PD1	OGC	D/DLPM
NAME	CGratton for JBoska	CH for MO'Brien	JClifford	EAdensam	SUttal	JZwolinski
DATE	8/30/01	7/9/01	9/4/01	9/4/01	7/18/01	9/5/01

**OFFICIAL RECORD COPY**

Peach Bottom Atomic Power Station  
Units 2 and 3

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Peach Bottom Atomic Power Station  
Units 2 and 3

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
EXELON GENERATION COMPANY, LLC  
PSEG NUCLEAR LLC  
ATLANTIC CITY ELECTRIC COMPANY  
PEACH BOTTOM ATOMIC POWER STATION, UNIT NOS. 2 AND 3  
DOCKET NOS. 50-277 AND 50-278  
EXEMPTION

1.0 BACKGROUND

Exelon Generation Company, LLC, PSEG Nuclear LLC, and Atlantic City Electric Company (the licensees) are the holders of Facility Operating License Nos. DPR-44 and DPR-56 which authorize operation of the Peach Bottom Atomic Power Station (PBAPS), Unit Nos. 2 and 3. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of dual unit boiling water reactors located in York County in Pennsylvania.

2.0 REQUEST/ACTION

Title 10 of the Code of Federal Regulations (10 CFR), Section 50.71 "Maintenance of records, making of reports," paragraph (e)(4) states, in part, that "Subsequent revisions [to the Updated Final Safety Analysis Report (UFSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates [to the UFSAR] does not

exceed 24 months.” The two units at PBAPS share a common UFSAR, therefore, this rule requires the licensees to update the same document annually or within 6 months after each unit’s refueling outage. Since each unit is on a staggered 24 month refueling cycle, updating after each refueling outage also results in an annual update. Single unit sites using a 24 month refueling cycle would only be required to update the UFSAR on a 24 month periodicity. The proposed exemption would allow updates to the combined UFSAR for PBAPS, Unit Nos. 2 and 3, to be submitted within 6 months following completion of each PBAPS Unit 2 refueling outage, not to exceed 24 months from the previous submittal.

In summary, the licensees have requested an exemption that would allow updates to the PBAPS UFSAR at a periodicity not to exceed 24 months, similar to the periodicity permitted for single unit sites.

### 3.0 DISCUSSION

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The last change to 10 CFR 50.71(e)(4) was published in the FEDERAL REGISTER (57 FR 39358) on August 31, 1992, and became effective on October 1, 1992. The underlying purpose of the rule change was to relieve licensees of the burden of filing annual UFSAR revisions, especially if there had been no refueling outages since the previous revision. Most of the changes which lead to revision of the UFSAR occur during refueling outages. The revised 10 CFR 50.71(e)(4) also assured that such revisions are made at least every 24 months. However, as written, the burden reduction can only be realized by single-unit facilities, or multiple-unit facilities that maintain separate UFSARs for each unit. In the Summary and Analysis of Public Comments accompanying the 10 CFR 50.71(e)(4) rule change

published in the FEDERAL REGISTER (57 FR 39355, 1992), the NRC acknowledged that the final rule did not provide burden reduction to multiple-unit facilities sharing a common UFSAR. The NRC stated: "With respect to the concern about multiple facilities sharing a common FSAR, licensees will have maximum flexibility for scheduling updates on a case-by-case basis." Granting this exemption would provide burden reduction to PBAPS while still assuring that revisions to the PBAPS UFSAR are made at least every 24 months.

The NRC staff examined the licensee's rationale to support the exemption request and concluded that updating the PBAPS UFSAR within 6 months following completion of each PBAPS Unit 2 refueling outage, not to exceed 24 months from the previous submittal, meets the underlying purpose of 10 CFR 50.71(e)(4), since the PBAPS UFSAR would be updated at least every 24 months, similar to the UFSAR at a single unit site. The requirement to revise the UFSAR annually or within 6 months after the refueling outages for each unit, therefore, is not necessary to achieve the underlying purpose of the rule. In addition, the NRC previously acknowledged that the revision to 10 CFR 50.71(e)(4) did not directly address burden reduction for multiple-unit facilities that share a common UFSAR, but that such situations could be addressed on a case-by-case basis. The NRC staff has reviewed the licensee's request and has concluded that application of the regulation in these circumstances is not necessary to achieve the underlying purpose of the rule.

Therefore, the NRC staff concludes that pursuant to 10 CFR 50.12(a)(2)(ii) special circumstances are present.

In addition, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

#### 4.0 CONCLUSION

Accordingly, the Commission hereby grants the licensees an exemption from the requirements of 10 CFR 50.71(e)(4) for PBAPS Unit Nos. 2 and 3, in that updates to the combined UFSAR for PBAPS, Unit Nos. 2 and 3, may be submitted within 6 months following completion of each PBAPS Unit 2 refueling outage, not to exceed 24 months from the previous submittal.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 41054).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 6th day of September 2001.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

John A. Zwolinski, Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation