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10 CFR 50.12
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U.S. Nuclear Regulatory Commission
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Clinton Power Station
Facility Operating License No. NPF-62
NRC Docket No. 50-461

Subject: Request for Exemption from 10 CFR 2.109(b)

In accordance with 10 CFR 54.15 and 50.12, "Specific exemptions," Exelon Generation Company, LLC (EGC) requests an exemption from 10 CFR 2.109(b), "Effect of timely renewal application." Section 2.109(b) provides that if a nuclear power plant licensee files a sufficient license renewal application (LRA) with the U.S. Nuclear Regulatory Commission (NRC) "at least 5 years before the expiration of the existing license, the existing license will not be deemed to have expired until the application has been finally determined." Specifically, EGC requests that it be permitted to submit the LRA for the Clinton Power Station (CPS) no later than three years prior to the expiration of the station's operating license (as potentially extended to April 17, 2027 by the pending EGC recapture license amendment request discussed below) and still receive timely renewal protection under 10 CFR 2.109(b).

On September 17, 2018, EGC submitted a license amendment request to revise the expiration date of the CPS operating license to recapture low-power testing time. The amendment requested that the expiration date of CPS's full-power operating license (FPOL) be revised such that it would expire 40 years from the date of issuance of the FPOL, as opposed to 40 years from the date of the low-power testing license. If this amendment is approved, then the FPOL will be extended for approximately 6.5 months, and will expire on April 17, 2027, instead of September 29, 2026. The recapture license amendment request was accepted for docketing on October 10, 2018. Thus, if the NRC approves the recapture amendment request and this exemption request, then EGC will be authorized to submit the CPS LRA by April 17, 2024 (i.e., three years before the extended FPOL expiration date of April 17, 2027) and still be granted the protections afforded by the timely renewal provision in 10 CFR 2.109(b).

The attachment to this letter provides the rationale and justification for the exemption request. The requested exemption from 10 CFR 2.109(b) is permissible under 10 CFR 54.15 and 10 CFR 50.12 because it 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. In addition, special circumstances are present such that: (1) the application of 10 CFR 2.109(b) in this instance would not serve the underlying purpose of the rule; (2) compliance with the five-year time limit

specified in that regulation would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated; and (3) other material circumstances that were not considered when the regulation was adopted are present such that granting the exemption is in the public interest.

EGC requests approval of the proposed exemption by November 8, 2019. There are no regulatory commitments contained in this submittal.

If you have any questions or require additional information, please contact Ms. Rebecca L. Steinman at (630) 657-2831.

Respectfully,

A handwritten signature in black ink, appearing to read "Patrick R. Simpson", with a long horizontal flourish extending to the right.

Patrick R. Simpson
Manager – Licensing
Exelon Generation Company, LLC

Attachment: Request for Exemption from 10 CFR 2.109(b)

cc: NRC Regional Administrator, Region III
NRC Senior Resident Inspector, Clinton Power Station

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1.0 SPECIFIC EXEMPTION REQUEST

In accordance with 10 CFR 54.15 and 50.12, which allow specific exemptions to U.S. Nuclear Regulatory Commission (NRC) regulations, Exelon Generation Company, LLC (EGC) requests an exemption from the five-year time limit specified in the NRC's timely renewal regulation in 10 CFR 2.109(b). Specifically, EGC requests that it be permitted to submit the license renewal application (LRA) for the Clinton Power Station (CPS) no later than three years prior to the expiration of the station's operating license (as potentially extended to April 17, 2027 by the pending EGC recapture license amendment request discussed below) and still receive timely renewal protection under 10 CFR 2.109(b). Thus, if the NRC approves the recapture amendment request and this exemption request, then EGC will be authorized to submit the CPS LRA by April 17, 2024 (i.e., three years before the extended FPOL expiration date of April 17, 2027) and still be granted the protections afforded by the timely renewal provision in 10 CFR 2.109(b).

2.0 BACKGROUND

In June 2016, Exelon Corporation announced its plans to retire the CPS and Quad Cities nuclear generating plants in June 2017 and June 2018, respectively—absent the passage of Illinois energy legislation that would make continued operation of those plants financially viable. Later that year, the Illinois General Assembly enacted the Future Energy Jobs Act (FEJA), prompting Exelon to change its plans. The FEJA amended the Illinois Power Agency Act (20 ILCS 3855/1-1 et seq.) to create a "zero emissions credit" (ZEC) program that compensates nuclear power generation in Illinois and corresponding sales of nuclear power in the wholesale market. The FEJA created a ZEC, which is a tradeable credit that represents the environmental attributes of one megawatt hour of energy produced from a zero-emission facility (i.e., a nuclear power plant interconnected with the Midcontinent Independent System Operator or PJM).¹

The FEJA requires the Illinois Power Agency and Illinois Commerce Commission (ICC) to conduct a multi-step process to select nuclear facilities to receive ZECs, and then to procure those ZECs on behalf of the State's utilities. EGC submitted the required eligibility information for CPS to the ICC, and was a winning bidder. EGC executed a ZEC procurement contract with certain Illinois utilities effective January 26, 2018. Whether EGC will have the opportunity and ability to execute similar ZEC procurement contracts in the future is uncertain at this time.

The CPS full power operating license (FPOL) expires on September 29, 2026. However, on September 17, 2018, EGC submitted a license amendment request to revise the expiration date of the CPS operating license to recapture low-power testing time (Reference 1). The

¹ On September 13, 2018, the U.S. Court of Appeals for the Seventh Circuit affirmed a federal district court decision that dismissed two complaints seeking to invalidate the Illinois ZEC program. See *Elec. Power Supply Ass'n v. Star*, No. 17-2433, 2018 WL 4356683 (7th Cir. Sept. 13, 2018). Relatedly, the U.S. Court of Appeals for the Second Circuit, citing the Seventh Circuit's decision, recently upheld a federal district court decision dismissing a complaint seeking to invalidate New York State's ZEC program. See *Coalition for Competitive Electricity, et al. v. Zibelman, et al.*, No. 17-2654-cv (Sept. 27, 2018).

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amendment requested that the expiration date of CPS's FPOL be revised such that it would expire 40 years from the date of issuance of the FPOL, as opposed to 40 years from the date of the low-power testing license. Thus, if this amendment is approved, then the FPOL will be extended for approximately 6.5 months, and would expire on April 17, 2027, instead of September 29, 2026. The recapture license amendment request was accepted for docketing on October 10, 2018 (Reference 2).

3.0 BASIS FOR EXEMPTION REQUEST

Under Section 9(b) of the Administrative Procedure Act of 1946 (APA), 5 USC 558(c), if a licensee of an activity of a continuing nature makes a "timely and sufficient" application for renewal in accordance with agency rules, the existing license does not expire until the application has been finally determined by the agency. This is known as the "timely renewal doctrine." The timely renewal doctrine is embodied in the NRC's regulations in 10 CFR 2.109(b), which states that "[i]f the licensee of a nuclear power plant licensed under 10 CFR 50.21(b) or 50.22 files a sufficient application for renewal of either an operating license or a combined license at least 5 years before the expiration of the existing license, the existing license will not be deemed to have expired until the application has been finally determined."

For reasons discussed below, at this time, the economic viability of continued operation of CPS beyond the current expiration date of its NRC license is uncertain. Under 10 CFR 2.109(b), EGC would need to file an LRA for CPS by September 29, 2021 (or April 17, 2022, if the pending recapture amendment is approved) in order for the timely renewal doctrine to apply to the application. To meet that deadline, EGC estimates that it would need to begin expending significant resources preparing the LRA by September 2019 (or April 2020, if the recapture is approved). However, as explained further below, due to continuing and significant changes in the economic and legislative environments that materially affect continued CPS operation, EGC will not be in a position to make a reasonable and sound business decision by September 2019 (or April 2020) as to whether to pursue license renewal. Allowing EGC to make that decision at a later date, when the economic viability of extended CPS operation can be more readily assessed, will result in more efficient use of both EGC and NRC financial and other resources.

As explained below, allowing CPS to receive timely renewal protection if the LRA is filed three years in advance of the license expiration date would enable EGC to make the most well-informed decision regarding the prudence of seeking license renewal, and still provide adequate time for the NRC to complete its review of the LRA in accordance with the NRC's established license renewal review schedule and to issue a final decision on the application.

4.0 JUSTIFICATION FOR EXEMPTION AND SPECIAL CIRCUMSTANCES

10 CFR 54.17(a) states, in part, that "[t]he filing of an application for a renewed license must be in accordance with subpart A of 10 CFR part 2," which includes the timely renewal provision in 10 CFR 2.109(b). In addition, 10 CFR 54.15 provides that "[e]xemptions from the requirements of this part [Part 54] may be granted by the Commission in accordance with 10 CFR 50.12." For the reasons discussed below, EGC respectfully requests that this application be granted because it meets the exemption criteria in Section 50.12.

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4.1 Exemption Justification

A. The exemption is authorized by law

10 CFR 50.12(a)(1) requires a demonstration that an exemption from NRC regulations is authorized by law. The NRC's timely renewal regulation (10 CFR 2.109) implements APA Section 9(b), which states that "[w]hen a licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency."²

As discussed further in Section 4.2.A of this exemption request, the five-year time limit (i.e., latest permitted date) for filing an LRA specified in 10 CFR 2.109(b) is the result of a discretionary agency rulemaking under Sections 161 and 181 of the Atomic Energy Act of 1954, as amended (AEA), and not an express statutory mandate. No statute requires the NRC to adopt a five-year time limit in its timely renewal regulation. Rather, in implementing the APA's timely renewal provisions, the NRC need only ensure that it provides itself with reasonable and sufficient time to review LRAs while providing appropriate timely renewal protection to compliant applicants.³

In fact, before the NRC first issued Part 54 in 1991, Section 2.109 contained a 30-day renewal application-filing requirement for all licenses issued for activities "of a continuing nature." The NRC and stakeholders recognized that reactor LRA reviews would take considerably longer than 30 days. The proposed Part 54 rule modified Section 2.109 to require that nuclear power plant LRAs be submitted at least three years prior to license expiration to be eligible for timely renewal protection. The NRC ultimately changed three years to five years in the final rule to make the deadline consistent with a Part 50 deadline for the filing of licensee decommissioning plans and related financial assurance information.⁴

Thus, neither the AEA nor the APA requires a five-year period for filing a renewal application to comply with the timely renewal doctrine. The NRC may shorten the period at its discretion and in accordance with agency rules through a change to, or exemption from, the existing regulation. Accordingly, this exemption request is authorized by law.

B. The exemption will not present an undue risk to public health and safety

10 CFR 50.12(a)(1) requires a demonstration that the granting of an exemption from the requirement in question "will not present an undue risk to the public health and safety." As demonstrated below, this exemption request fully satisfies that criterion.

² Administrative Procedure Act of 1964 (APA), 5 USC 558(c).

³ At the time the NRC issued its original license renewal rule, the NRC Staff noted that "[a]ny period determined as reasonable for NRC review of license renewal applications should ideally not be restrictive to licensees." NUREG-1362, "Regulatory Analysis for Final Rule on Nuclear Power Plant License Renewal" (Dec. 1991) at 5-5.

⁴ Nuclear Power Plant License Renewal; Final Rule, 56 Fed. Reg. 64,943, 64,962 (Dec. 13, 1991).

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If EGC decides to seek license renewal, then it will need to satisfy applicable regulatory requirements in connection with the preparation and submittal of a sufficient LRA for CPS. In that case, EGC would submit the application no later than three years prior to license expiration and conduct any necessary technical reviews and evaluations to ensure continued safe plant operation for the requested period of extended operation.

This three-year timeframe will afford the NRC a sufficient and reasonable period of time to complete its safety and environmental reviews – consistent with its targeted 30-month schedule for contested cases and 22-month schedule for uncontested cases – prior to the expiration date of the CPS operating license on September 29, 2026 (or April 17, 2027, if the pending low-power testing recapture request is approved).⁵

Pursuant to 10 CFR 54.29, "Standards for issuance of a renewed license," a renewed license may be issued only upon a finding by the NRC that, for matters within the scope of license renewal, there is "reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the [current licensing basis], and that any changes made to the plant's [current licensing basis] ... are in accord with the [AEA] and the Commission's regulations." Nothing in this exemption request would obviate the NRC's required findings under Section 54.29, or limit public participation in the license renewal process. Furthermore, pending final action on any future LRA, the NRC would retain its authority to conduct all regulatory activities associated with licensing, inspection, and oversight, and to take whatever action(s) may be necessary to ensure adequate protection of the public health and safety.

C. The exemption is consistent with the common defense and security

Modification of the timely renewal application-filing deadline from five years to three years before license expiration would not affect continued protection of the common defense and security at CPS. CPS's safeguards and security programs will remain in full effect during any interim period permitted under the timely renewal doctrine.

4.2 Special Circumstances Supporting the Issuance of an Exemption

Under 10 CFR 50.12(a)(2), the NRC will not consider granting an exemption unless at least one of six "special circumstances" enumerated in the regulation is present. Three special circumstances apply to this request. First, under 10 CFR 50.12(a)(2)(ii), the underlying purpose of the rule can be achieved if EGC files a license renewal application three years before the CPS license expiration date. Thus, application of the five-year time limit in 10 CFR 2.109(b) is

⁵ See NUREG-1850, "Frequently Asked Questions on License Renewal of Nuclear Power Reactors," (March 2006) at 1-8. In light of the NRC's 18-month goal for the River Bend license renewal application and the Peach Bottom subsequent license renewal application, three years (36 months) provides ample margin with regard to the time required for completion of the NRC Staff's detailed review of an LRA for CPS. See River Bend license renewal application, available at: <https://www.nrc.gov/reactors/operating/licensing/renewal/applications/river-bend.html#schedule>; see also Peach Bottom subsequent license renewal application schedule, available at: <https://www.nrc.gov/reactors/operating/licensing/renewal/applications/peach-bottom-subsequent.html#schedule>.

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not necessary in these circumstances. Second, compliance with the regulation would result in undue hardship and costs to EGC that are significantly in excess of those contemplated when the regulation was adopted, or those incurred by others similarly situated (10 CFR 50.12(a)(2)(iii)). Third, other material circumstances not considered when the regulation was adopted are present, such that granting the exemption is in the public interest (10 CFR 50.12(a)(2)(vi)).

A. Application of the regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule

The purpose of 10 CFR 2.109(b) is to implement the "timely renewal" doctrine of APA Section 9(b), which states:

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.⁶

The underlying purpose of the APA's timely renewal provision is to "prevent[] the unfairness that would result if agency delay caused a licensee to lose a license despite having filed a timely renewal application."⁷ In other words, the provision protects a licensee who is engaged in an ongoing licensed activity and who has complied with agency rules in applying for a renewed or new license from facing license expiration due to delays in the administrative process.

As noted above, on December 13, 1991, the NRC published the license renewal rule, 10 CFR Part 54. The Statement of Considerations (SOC) for that rule discussed the timely renewal doctrine and the basis for establishing the latest date for filing LRAs as five years prior to expiration of the existing license. Specifically, the SOC stated that:

Because the review of a renewal application will involve a review of many complex technical issues, the NRC estimates that the technical review would take approximately 2 years. Any necessary hearing could likely add an additional year or more. Therefore, in the proposed rule, the Commission modified § 2.109 to require that nuclear power plant operating license renewal applications be submitted at least 3 years prior to their expiration in order to take advantage of the timely renewal doctrine.

No specific comment was received concerning the proposal to add a 3-year provision for the timely renewal provision for license renewal. The current regulations require licensees to submit decommissioning plans and related financial assurance information on or about 5 years prior to the expiration of their operating licenses. The Commission has concluded that, *for consistency*, the

⁶ Administrative Procedure Act of 1964 (APA), 5 USC 558(c).

⁷ *Kay v. FCC*, 525 F. 3d 1277, 1279 (D.C. Cir. 2008) (citing *Miami MDS Co. v. FCC*, 14 F.3d 658, 659-60 (D.C. Cir. 1994)).

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deadline for submittal of a license renewal application should be 5 years prior to the expiration of the current operating license. The timely renewal provisions of § 2.109 now reflect the decision that a 5-year time limit is more appropriate.⁸

The foregoing excerpt indicates that the NRC viewed three years as providing adequate agency review time. Should EGC seek license renewal, it would submit the CPS LRA no later than three years prior to license expiration. The proposed three-year period will provide the NRC ample time to perform a full and adequate review of the application.⁹ Therefore, application of the five-year period in 10 CFR 2.109(b) for the filing of an LRA is not necessary in this situation to achieve the purpose of the regulation.

Submittal of the CPS LRA at least 36 months prior to expiration of the operating license would provide the three-year review period that the NRC originally estimated would be adequate to review an LRA and complete any associated adjudicatory hearing. Again, the NRC's current targeted schedule for reviewing LRAs is to complete its review and make a decision on issuing the renewed license within 22 months (or less) of receipt if there is no hearing, and within 30 months of receipt if a hearing is held.¹⁰ Therefore, a period of 36 months would provide ample time for the NRC to perform full and adequate safety and environmental reviews of the CPS LRA.

Based on the above, application of the five-year timeframe in 10 CFR 2.109(b) is not necessary to achieve the underlying purpose of the rule, as required by 10 CFR 50.12(a)(2)(ii). Accordingly, special circumstances are present to justify the requested exemption.

B. Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated

As explained above, EGC's ability to make a sound business decision as to whether to pursue CPS license renewal by September 2019 (or April 2020, if the pending recapture amendment is granted) depends on certain economic and legislative factors that continue to evolve rapidly and in a manner that does not lend itself to precise forecasting by EGC. For example, material changes in the power generation market that improve plant economics, or new legislation incentivizing continued operation of CPS, could occur and be significant factors informing EGC's

⁸ Nuclear Power Plant License Renewal, 56 Fed. Reg. at 64,962 (emphasis added).

⁹ As discussed in the SOC, the five-year timeframe ultimately adopted in 10 CFR 2.109(b) was chosen simply as a matter of administrative convenience, in order to be consistent with other regulations regarding decommissioning plans and financial assurance information. The five-year timeframe was not driven by a substantive need for that amount of time, as the NRC made clear that the technical review itself is expected to take only two years. 56 Fed. Reg. at 64,962. Moreover, because the NRC's license renewal program is now a very established and mature process, the NRC's technical review may take even less than two years.

¹⁰ See NUREG-1850 at 1-8 which specifically notes that "[t]he Commission may grant an exemption to the regulations to allow a licensee with less than 5 years remaining on its operating license to submit a license renewal application and still avail itself of the timely application to renew provisions of 10 CFR 2.109(b)." *Id.* at 1-9.

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decision on whether to pursue license renewal, as well as the length of the requested renewal term. Obtaining a sufficiently clear picture of these economic and legislative landscapes may not be possible within the five-year timely renewal "window" provided by Section 2.109(b). Therefore, allowing the decision to pursue license renewal to be made at a later date, when economic and other factors affecting the viability of extended CPS operation are clearer, will allow for more efficient use of EGC and NRC resources.

Without this exemption, EGC would face undue hardship and costs significantly in excess of those contemplated when the regulation was adopted. If the exemption is not granted and EGC must submit the LRA within five years of license expiration to preserve timely renewal protection, it may unnecessarily expend resources on developing and filing an application that it ultimately decides to withdraw for reasons that it cannot discern at this time. The cost to prepare an LRA is substantial, estimated to be approximately \$30 million. Included in this cost are the fees associated with the NRC's review, which may prove unnecessary if the application is ultimately abandoned based on unforeseen economic or other conditions that are uncondusive to continued CPS operation.

Alternatively, if the exemption is not granted and EGC submits the LRA in less than five years from license expiration (so that it may have a better understanding of market conditions and relevant energy policies), then it faces a different risk: being forced to shut down CPS if the application is not approved before the current license expires. This scenario would cause EGC to lose operating revenue and incur expenses associated with preparing the LRA. It would also cause significant uncertainty for CPS employees due to the indeterminate length of time that the station would be shut down and the possibility of a permanent shutdown. Such uncertainty might prompt some CPS employees to seek alternative employment opportunities thereby creating potential staffing concerns in the event of plant restart.

The timely renewal rule did not consider the substantial impact that fluctuating economic and legislative conditions could have on licensees' decisions to pursue license renewal, as comparable conditions did not exist at the time. The fairly recent decisions of numerous licensees to prematurely close nuclear power plants and related state legislative actions intended to prevent further shutdowns are testament to this fact. Therefore, the potential financial and employment hardships CPS would bear if the requested exemption is not granted significantly exceed those contemplated by the NRC when the current timely renewal rule was promulgated. These are additional special circumstances justifying issuance of the exemption.

C. It is in the public interest to grant the exemption based on new and material circumstances that did not exist when the NRC adopted Section 2.109(b)

As described above, CPS must operate within economic and legislative environments that continue to evolve rapidly and that will factor heavily into any future decision by EGC to pursue license renewal for CPS. These dynamic market and political conditions constitute material circumstances that were not specifically considered when the NRC revised 10 CFR 2.109(b) in 1991. In deciding upon a five-year advance filing period for the timely renewal rule, the NRC did not consider these factors. Rather, it adopted the five-year timeframe purely for administrative reasons; i.e., to provide consistency with other regulations requiring the filing of decommissioning plans and financial assurance information five years prior to license expiration. It is in the public interest to grant the exemption based on these new and material

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circumstances, because it would allow for more prudent use of EGC and NRC resources while still maintaining public health and safety.

5.0 PRECEDENT

The NRC approved a request for an exemption from the timely renewal provision of 10 CFR 2.109 for Oyster Creek Nuclear Generating Station in 2004. That exemption allowed AmerGen Energy Company, LLC to submit an LRA for the facility less than five years prior to the expiration of the operating license, while maintaining the timely renewal protection provided in 10 CFR 2.109(b).

Oyster Creek Nuclear Generating Station – Exemption from the Requirements of Section 109(b) of 10 CFR Part 2, Regarding the Effect of Timely License Renewal Application (TAC No. MC3967), dated December 22, 2004 (ADAMS Accession No. ML042960164)

6.0 ENVIRONMENTAL ASSESSMENT

EGC has determined that the proposed exemption request meets the categorical exclusion provision in 10 CFR 51.22(c)(25). Specifically, the requested licensing action is an exemption from the requirements of the Commission's regulations and (1) there is no significant hazards consideration; (2) there is no significant change in the types or significant increases in the amounts of any effluents that may be released offsite; (3) there is no significant increase in individual or cumulative occupational radiation exposure; (4) there is no significant construction impact; (5) there is no significant increase in the potential for or consequences from radiological accidents; and (6) the requirements from which an exemption is sought involve scheduling requirements and other requirements of an administrative nature.

Therefore, in accordance with 10 CFR 51.22(b), no environmental assessment or environmental impact statement needs to be prepared in connection with the proposed exemption request.

6.1 No Significant Hazards Consideration

EGC has evaluated whether a significant hazards consideration is involved with the proposed exemption in accordance with the three standards set forth in 10 CFR 50.92, "Issuance of amendment," as discussed below.

1. Does the proposed exemption involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed exemption would allow EGC to submit an LRA for CPS less than five years before expiration of the operating license, while still maintaining timely renewal protection under 10 CFR 2.109(b). The proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated because it does not involve a change to the design configuration or operation of the facility. The proposed exemption does not affect the source term, containment isolation, or radiological release

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assumptions used in evaluating the radiological consequences of an accident previously analyzed in the CPS Updated Safety Analysis Report (USAR).

Therefore, the proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed exemption create the possibility of a new or different kind of accident from any accident previously analyzed?

Response: No

The proposed exemption would allow EGC to submit an LRA for CPS less than five years before expiration of the operating license, while still maintaining timely renewal protection under 10 CFR 2.109(b). The proposed exemption does not involve physical alteration of plant systems, structures, or components (SSCs), or changes in parameters governing the manner in which the plant is operated and maintained.

Therefore, the proposed exemption does not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. Does the proposed exemption involve a significant reduction in a margin of safety?

Response: No

The proposed exemption would allow EGC to submit an LRA for CPS less than five years before expiration of the operating license, while still maintaining timely renewal protection under 10 CFR 2.109(b). No physical changes are being made to the design features or operation of the facility.

Margin of safety is associated with confidence in the ability of the fission produce barriers (i.e., fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the radiological dose to the public and control room operators in the event of an accident. The proposed exemption has no impact on the margin of safety and robustness provided in the design and construction of the facility. In addition, the proposed exemption will not relax any of the criteria used to establish safety limits, nor will the proposed exemption relax safety system settings or limiting conditions of operation as defined in the Technical Specifications.

Therefore, the proposed exemption does not involve a significant reduction in a margin of safety.

Based on the above evaluation, EGC concludes that the proposed exemption presents no significant hazards consideration under the standards set forth in 10 CFR 50.92 and, accordingly, a finding that the exemption involves "no significant hazards consideration" is justified.

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6.2 There is no significant change in the types or significant increases in the amounts of any effluents that may be released offsite

There are no expected changes in the types, characteristics, or quantities of effluents discharged to the environment associated with the proposed exemption. The exemption will not cause any materials or chemicals to be introduced into the plant that could affect the characteristics or types of effluents released offsite. In addition, the method of operation of waste processing systems will not be affected by the exemption. The proposed exemption will not result in changes to the design basis requirements of SSCs that function to limit or monitor the release of effluents. All the SSCs associated with limiting the release of effluents will continue to be able to perform their functions. Therefore, the proposed exemption will result in no significant change to the types or significant increase in the amounts of any effluents that may be released offsite.

6.3 There is no significant increase in individual or cumulative public or occupational radiation exposure

The proposed exemption does not involve any physical alterations to the plant configuration or any changes to the operation of the facility that could lead to a significant increase in individual or cumulative occupational radiation exposure.

6.4 There is no significant construction impact

No construction activities are associated with the proposed exemption.

6.5 There is no significant increase in the potential for or consequences from radiological accidents

See the no significant hazards considerations discussion in Section 6.1 above.

6.6 The requirements from which the exemption is sought involve § 51.22(c)(25)(vi)(G) (Scheduling requirements), and § 51.22(c)(25)(vi)(I) (Other requirements of an administrative, managerial, or organizational nature)

The underlying purpose of the timely renewal requirement in 10 CFR 2.109(b) from which an exemption is sought is to protect a licensee who is engaged in an ongoing licensed activity and who has complied with agency rules in applying for a renewed or new license from facing license expiration as the result of delays in the administrative process. The requested exemption, if granted, would allow EGC to submit an LRA for CPS with less than five years remaining before expiration of the operating license while maintaining the protections of the timely renewal provision in 10 CFR 2.109(b), and allowing sufficient time for NRC review of the renewal application.

7.0 CONCLUSION

As demonstrated above, this request for an exemption from the requirements of 10 CFR 2.109(b) meets the criteria of 10 CFR 54.15 and 10 CFR 50.12 for specific exemptions. Specifically, the requested exemption is authorized by law, will not present an undue risk to the

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public health and safety, and is consistent with the common defense and security. In addition, the special circumstances described in 10 CFR 50.12(a)(2)(ii), (iii), and (vi) are present and warrant issuance of the exemption.

8.0 REFERENCES

1. Letter from Patrick R. Simpson, Exelon Generation Company, LLC to U.S. Nuclear Regulatory Commission – "License Amendment Request to Recapture Low-Power Testing Time," dated September 17, 2018 (ADAMS Accession No. ML18260A307)
2. Email from J. Wiebe (US NRC) to R. Steinman (EGC), "Clinton Power Station, Unit 1 – Acceptance Review and Resource Estimate for License Amendment Request to Recapture Low-power Testing Time," dated October 10, 2018 (ADAMS Accession No. ML18283B065)