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### Charter Renewal

Section 7902 of Title 5 of the U.S. Code provides that the President may establish, by executive order, a safety council (FACOSH) composed of representatives of Federal agencies and labor organizations representing Federal employees to serve as an advisory body to the Secretary on issues involving the occupational safety and health of the federal workforce. On September 29, 2009, President Barack Obama signed Executive Order 13511 authorizing the continuance of FACOSH for two another years, until September 30, 2011 (5 U.S.C. 7902).

The Federal Advisory Committee Act (FACA) requires that, upon the continuance or renewal of an advisory committee, a new charter be filed (5 U.S.C. App. § 14). Pursuant to FACA and its implementing regulations (41 CFR Part 102-3), on November 6, 2009, the Secretary renewed the FACOSH charter, which expired on September 30, 2009. The new FACOSH charter will expire on September 30, 2011, unless the Secretary terminates it prior to that date.

*Authority and Signature:* Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668), 5 U.S.C. 7902, the Federal Advisory Committee Act (5 U.S.C. App), Executive Order 13511, 29 CFR Part 1960 (Basic Program Elements of for Federal Employee Occupational Safety and Health Programs), 41 CFR Part 102-3, and Secretary of Labor's Order 5-2007 (72 FR 31160).

Signed at Washington, DC, this 8th day of December 2009.

**Jordan Barab,**

*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. E9-29675 Filed 12-11-09; 8:45 am]

**BILLING CODE 4510-26-P**

### NATIONAL CREDIT UNION ADMINISTRATION

#### Sunshine Act; Notice of Agency Meeting

**TIME AND DATE:** 10 a.m., Thursday, December 17, 2009.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

1. Proposed Rule—Part 701 of NCUA's Rules and Regulations, Interpretive Ruling and Policy Statement (IRPS) 09-1, NCUA's Chartering and Field of Membership Policies.

2. Final Rule—Section 701.21(f) of NCUA's Rules and Regulations, Exception to the Maturity Limit on Second Mortgages.

3. Insurance Fund Report.

**RECESS:** 11:15 a.m.

**TIME AND DATE:** 11:30 a.m., Thursday, December 17, 2009.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Cedar Point Federal Credit Union's Appeal of Denial by Regional Director of its Request to Convert to Community Charter. Closed pursuant to Exemptions (4) and (8).

2. Consideration of Supervisory Activities. Closed pursuant to Exemptions (8), (9)(A)(ii) and 9(B).

3. Personnel. Closed pursuant to Exemption (2).

**FOR FURTHER INFORMATION CONTACT:** Mary Rupp, Secretary of the Board, Telephone: 703-518-6304.

**Mary Rupp,**

*Secretary of the Board.*

[FR Doc. E9-29832 Filed 12-10-09; 4:15 pm]

**BILLING CODE P**

### NUCLEAR REGULATORY COMMISSION

[NRC-2009-0545; Docket No.: 55-62191; License No.: OP-11276-1 (Terminated), IA-09-023]

#### In the Matter of: Duane Kuhn; Confirmatory Order Modifying License (Effective Immediately)

#### I

Duane Kuhn (Mr. Kuhn) was previously employed as a Reactor Operator (RO) at Exelon Generation Company, LLC's (Exelon or licensee) Peach Bottom Atomic Power Station (Peach Bottom or facility) located in Delta, Pennsylvania. Mr. Kuhn was the holder of RO License Number OP-11276-1, issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 55. The license authorized Mr. Kuhn to manipulate the controls of the facility. At Exelon's request, the license was terminated on July 31, 2008.

This Confirmatory Order (Order) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on September 24, 2009. ADR is a process in which a neutral mediator with no decision-making authority assists parties in reaching an agreement on resolving any differences regarding the dispute.

#### II

The NRC Office of Investigations (OI) initiated an investigation on May 5, 2008 to determine whether Mr. Kuhn deliberately violated NRC requirements by failing to inform Exelon of information required to be reported. Based on the evidence developed during the OI investigation, which was completed on March 4, 2009, the NRC identified an apparent willful violation. The apparent violation involved Mr. Kuhn's failure to inform Exelon of an arrest on his first day back at work following the incident, as required by Exelon's Behavioral Observation Program implementing procedure, the Peach Bottom Physical Security Plan, and 10 CFR 73.20(c). A description of this apparent violation and a factual summary of the results of the

investigation were sent to Mr. Kuhn in an NRC letter dated June 5, 2009.

### III

The June 5, 2009 NRC letter informed Mr. Kuhn that the agency was considering escalated enforcement against him for this apparent violation of NRC requirements and offered him the opportunity to either attend a Predecisional Enforcement Conference or to request use of ADR, to resolve this matter. On June 24, 2009, Mr. Kuhn requested the use of ADR and, on September 24, 2009, the NRC and Mr. Kuhn met in an ADR session mediated by a professional mediator, arranged through Cornell University's Scheinman Institute on Conflict Resolution. During that ADR session, a settlement agreement was reached. This Confirmatory Order is the result of that agreement, the elements of which consisted of the following:

1. As a result of the ADR discussion, the NRC and Mr. Kuhn agreed to the following facts: (1) Mr. Kuhn was arrested on October 13, 2007, for driving under the influence (DUI) of alcohol; (2) Mr. Kuhn did not report the arrest to the Exelon-Peach Bottom management until April 29, 2008; and, (3) at the time of the arrest, Mr. Kuhn was required to follow all station procedures under the terms and conditions of his individual reactor operator license.

2. As a result of the facts agreed to in Item 1, the NRC has determined that Mr. Kuhn violated NRC requirements while he was employed as an RO at Peach Bottom. Specifically, the NRC concluded that, contrary to his reactor operator license, NRC regulations, and Exelon's Behavioral Observation Program procedure, Mr. Kuhn willfully failed to report to Exelon-Peach Bottom, for approximately six months, that he had been arrested for driving under the influence of alcohol on October 13, 2007. The NRC considered that this constituted a Severity Level III violation.

3. Mr. Kuhn agreed that he violated Peach Bottom's Physical Security Plan and Exelon's Behavioral Observation Program procedure when he failed to report the arrest (an incident involving alcohol, which, by Exelon procedure required reporting) for approximately six months, and, as a result, violated his individual reactor operator license. Mr. Kuhn contends that his actions were not willful because he did not consider the incident to constitute an arrest until reading the Peach Bottom newsletter article that included a definition of an arrest. Mr. Kuhn maintains that, immediately upon reading the article, he self-reported this incident to Exelon-

Peach Bottom management. However, Mr. Kuhn acknowledged that he should have known that he was required to report this incident, because it involved alcohol.

4. Mr. Kuhn noted that he was required to complete a number of actions as a result of an Accelerated Rehabilitative Disposition program for his DUI arrest. These actions included:

- a. Relinquishing his driver's license for a period of 60 days;
- b. Completing 35 hours of community service;
- c. Completing 16 hours of educational classes on the hazards of drinking and specifically the hazards of drinking and driving;
- d. Attending a victim impact panel, at which victims and families of victims of alcohol-related driving incidents, described how their lives have been impacted by such events; and
- e. Completing 6 weeks of licensee-sponsored counseling, which included attending six sessions of Alcoholics Anonymous meetings.

5. During the ADR mediation session, Mr. Kuhn recognized an opportunity for other licensed operators at Peach Bottom, within Exelon, and in the industry to learn from his violation. Therefore, Mr. Kuhn agreed to author an article in which he relates this incident and what he has learned from it. Within that article, Mr. Kuhn will emphasize the importance of adherence to all requirements, including the requirement of informing facility licensees of all reportable incidents defined within the facility's behavior observation program. Mr. Kuhn also agreed to submit this article to: (1) Exelon for consideration to use in its training program; and (2) the Professional Reactor Operator Society (PROS) and the Institute of Nuclear Power Operations (INPO) requesting their consideration for publication in their respective newsletters.

6. Mr. Kuhn agreed to complete the actions in Item 5 within 90 days after issuance of a NRC Confirmatory Order confirming the commitments agreed to herein; send a letter to the NRC informing the NRC that these actions are complete; and include in the letter to the NRC a copy of the article submitted to Exelon, PROS, and INPO. Mr. Kuhn agreed to send this letter to the NRC within 30 days of completion of the actions stated in Item 5.

7. In light of the actions Mr. Kuhn has committed to take as described in Item 5, the NRC agreed to not take enforcement action against him, other than issuance of a Confirmatory Order confirming the commitments set forth herein. The Confirmatory Order and its transmittal letter will be publicly

available in ADAMS, will appear on the NRC "Significant Enforcement Actions—Individuals" Web site for a period of one year, and will also be placed in Mr. Kuhn's individual license file.

On November 17, 2009, Mr. Kuhn consented to issuing this Order with the commitments, as described in Section V below. Mr. Kuhn further agreed that this Order is to be effective upon issuance and that he has waived his right to a hearing.

### IV

Since Mr. Kuhn has agreed to take additional actions to address NRC concerns, as set forth in Section III, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Kuhn's commitments, as set forth in Section III, are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have also determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and Mr. Kuhn's consent, this Order is immediately effective upon issuance.

### V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *it is hereby ordered, effective immediately that Duane Kuhn shall:*

A. Author an article in which he relates this incident and what he has learned from it, emphasizing the importance of adherence to all requirements, including the requirement of informing facility licensees of all reportable incidents defined within the facility's behavior observation program.

B. Submit this article to: (1) Exelon for consideration to use in its training program; and (2) the Professional Reactor Operator Society (PROS) and the Institute of Nuclear Power Operations (INPO) requesting their consideration for publication in their respective newsletters.

C. Complete the above actions within 90 days after issuance of this NRC Confirmatory Order.

D. Send a letter to the NRC informing the NRC that these actions are complete; and include in the letter to the NRC a copy of the article submitted to Exelon, PROS, and INPO within 30 days of completion of the above actions.

The NRC Region I Regional Administrator may relax or rescind, in

writing, any of the above conditions upon demonstration by Mr. Kuhn of good cause.

## VI

Any person adversely affected by this Confirmatory Order, other than Mr. Kuhn, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's

"Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at [\[submittals.html\]\(http://www.nrc.gov/site-help/e-submittals.html\), by e-mail at \[MSHD.Resource@nrc.gov\]\(mailto:MSHD.Resource@nrc.gov\), or by a toll-free call at \(866\) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.](http://www.nrc.gov/site-help/e-</a></p></div><div data-bbox=)

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, this Order shall be final 20 days from the date of its publication in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A request for a hearing shall not stay the immediate effectiveness of this order.

Dated this the 1st day of December 2009.

For the Nuclear Regulatory Commission.

**Samuel J. Collins,**

*Regional Administrator.*

[FR Doc. E9-29661 Filed 12-11-09; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[NRC-2009-0546, Docket Nos.: 50-277/278, License Nos: DPR-44 &, DPR-56, EA-09-007 & EA-09-059]

### In the Matter of: Exelon Generating Company, LLC Peach Bottom Atomic Power Station, Confirmatory Order Modifying License (Effective Immediately)

#### I

Exelon Generating Company, LLC (Exelon or licensee) is the holder of Facility Operating License Nos. DPR-44 and DPR-56 issued by the U.S. Nuclear Regulatory Commission (NRC or agency) pursuant to 10 CFR Part 50. The licenses authorize the operation of Peach Bottom Atomic Power Station, Units 2 and 3 (Peach Bottom or facility), in accordance with conditions specified therein. The facility is located on the licensee's site in Delta, Pennsylvania.

This Confirmatory Order (Order) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on September 3, 2009. ADR is a process in which a neutral mediator with no decision-making authority assists parties in reaching an agreement on resolving any differences regarding the dispute.

#### II

Two investigations were initiated by the NRC Office of Investigations (OI) to determine if two former Peach Bottom employees deliberately violated NRC requirements by reporting inaccurate information in one instance, and failing to inform the licensee of information required to be reported in the other. An NRC letter to Exelon on June 5, 2009, transmitted factual summaries of the OI investigations and informed Exelon that, based on the evidence developed during the investigations, OI had substantiated that apparent violations of NRC requirements had occurred as the result of deliberate actions of the former Peach Bottom employees. The first investigation, initiated on February 12, 2008, determined that a former Peach Bottom maintenance supervisor deliberately failed to provide complete and accurate information when completing a Personal History Questionnaire (PHQ) for unescorted access authorization (UAA), and subsequently gained access to the site. PHQs are a means by which licensees, including Exelon, collect information to make determinations about an individual's suitability for unescorted access, as required by 10 CFR 73.56 and the licensee's Physical Security Plan. Specifically, the former maintenance supervisor provided incorrect information regarding the character of his military service, his history of misconduct in the military, and the nature of his discharge from the military. The second investigation, initiated on May 5, 2008, determined that a former Peach Bottom licensed Reactor Operator (RO) deliberately failed to report an arrest/criminal charges in accordance with the site security program procedures for UAA and the Behavioral Observation Program (BOP). Specifically, the RO was arrested and charged with driving under the influence on October 13, 2007, and did not report the incident to Exelon until April 28, 2008.

#### III

The June 5, 2009, NRC letter informed Exelon that the agency was considering escalated enforcement against it for these apparent violations of NRC requirements and offered Exelon the opportunity to either attend a Predecisional Enforcement Conference or to request use of ADR, to resolve this matter. On June 12, 2009, Exelon requested the use of ADR. On September 3, 2009, the NRC and Exelon met in an ADR session mediated by a professional mediator, arranged through Cornell University's Scheinman

Institute on Conflict Resolution. During that ADR session, a settlement agreement was reached. This Confirmatory Order is the result of that agreement, the elements of which consisted of the following:

1. Exelon did not take issue with the NRC preliminary conclusion set forth in the June 5, 2009, letter that two violations occurred and that the actions by the former maintenance supervisor and the former RO regarding the violations were deliberate. The NRC concluded that both violations warranted Severity Level III classification and would normally be subject to a civil penalty in accordance with the NRC Enforcement Policy, because Exelon did not identify one of the two violations. Exelon did not take issue with the NRC conclusion that the violation involving the former RO constitutes a Severity Level III violation. Exelon, however, asserted that the maintenance supervisor applicant was not a fully qualified supervisor when incomplete and inaccurate information was provided. Therefore, this instance would not constitute a Severity Level III violation. The NRC and Exelon agreed to disagree on the severity level of this violation.

2. The NRC acknowledged that Exelon had taken several corrective actions in response to the violations, so as to preclude the occurrence of similar violations in the future. These actions include:

a. Completed Corrective Actions only affecting Peach Bottom:

- i. Conducted training module, emphasizing the impact of deliberate misconduct on nuclear safety culture.
- ii. Performed common cause evaluation on deliberate misconduct events at PBAPS and implemented resulting corrective actions.

b. Completed Corrective Actions affecting all Exelon operating nuclear facilities:

- i. Revised Exelon fleet-wide PHQ to require applicants to review and acknowledge the expectation to provide complete and accurate information and the consequences of providing false, incomplete, or misleading information.
- ii. Revised fleet-wide procedure/process for validating military background investigation element.
- iii. Implemented fleet-wide safety culture training and workshops.

c. Completed Corrective Actions affecting the nuclear industry:

- i. Incorporated lessons learned regarding validation of military background into industry guidance document Nuclear Energy Institute (NEI) 03-01 to strengthen industry process.