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January 30, 2018

Elder Ghigiarelli, Jr.
Deputy Program Administrator
Wetlands and Waterways Program
Maryland Department of the Environment
1800 Washington Boulevard, Ste. 430
Baltimore, Maryland 21230
elder.ghigiarelli@maryland.gov

Re: Conowingo Hydroelectric Plant Relicensing – FERC Docket No.: P-405-106
Exelon Generation Company, LLC Application # 17-WQC-02
Lower Susquehanna River and Upper Chesapeake Bay – Use 1 & 2 Waters
Supplemental Comments #2

Dear Deputy Administrator Ghigiarelli:

On behalf of the Clean Chesapeake Coalition (“Coalition”), we respectfully submit the following supplemental comments and recommendations regarding the application of Exelon Generation Company, LLC (“Exelon”) to the Maryland Department of the Environment (“MDE”) for a Clean Water Act Section 401 water quality certification (“WQC”) for the relicensing of Exelon’s Conowingo Hydroelectric Project by the Federal Energy Regulatory Commission (“FERC”) (FERC Project No. 405). This letter is intended to supplement the Coalition’s written comments dated August 16, 2017 and January 15, 2018.

We recognize that MDE’s public comment period in this matter was closed earlier this month; however, a recent notification from FERC to the owners/operators of FERC-regulated dams nationwide, including Exelon in the context of FERC Project No. 405, warrants inclusion and consideration in MDE’s review of the WQC application.

Specifically, by notice dated January 26, 2018 (copy enclosed), FERC’s Office of Energy Projects, Division of Dam Safety and Inspections, advised dam owners that: “On January 5, 2018 the Independent Forensic Team (IFT) released their final report on the Oroville Dam Spillway Incident [that occurred in California in February 2017]. The IFT Report highlights several issues that everyone involved in the dam safety industry should be aware of. The report is available on the FERC website at:

<https://www.ferc.gov/industries/hydropower/safety/projects/oroville.asp>

...It is very clear [from the IFT Report] that just because a project has operated successfully for a long period of time does not guarantee that it will continue to do so.”

This FERC advisory about the IFT Report on the Oroville Dam Spillway Incident is critically relevant to the pending WQC application for Conowingo Dam relicensing in the following respects:

1. Oroville Dam was constructed circa 1968; while Conowingo Dam is some 40 years older having been constructed circa 1928;
2. Underscoring the need to dredge (remove) as much of the nutrient-laden sediment accumulated in the reservoir as practicable to minimize the downstream environmental damage that would result from a calamitous structural failure like the Oroville Dam spillway incident; and
3. Exemplifying the justification for reopeners and associated triggers as a condition of any WQC for the extended term of license sought by Exelon.

Thank you for your attention and consideration of these comments as part of MDE's WQC review and conditioning process.

Sincerely,



Ronald H. Fithian, *Chairman*
and Kent County Commissioner

Enclosure

cc: Clean Chesapeake Coalition
Distribution List



FEDERAL ENERGY REGULATORY COMMISSION
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Division of Dam Safety and Inspections
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January 26, 2018

Subject: Oroville Dam Independent Forensic Findings

On January 5, 2018, the Independent Forensic Team (IFT) released their final report on the Oroville Dam Spillway Incident. The IFT Report highlights several issues that everyone involved in the dam safety industry should be aware of. The report is available on the FERC website at:

<https://www.ferc.gov/industries/hydropower/safety/projects/oroville.asp>

We request that you and your Chief Dam Safety Engineer/Coordinator read this report, share it with your senior executives as well as all your dam safety staff and discuss how the findings may apply to your own facilities and overall dam safety program. The report concludes that flaws in the Oroville Dam Spillway existed since construction that were missed by the owner, regulators, and consultants. It is very clear that just because a project has operated successfully for a long period of time does not guarantee that it will continue to do so.

One critical aspect of an Owner's Dam Safety Program (ODSP) is communication between dam safety staff and senior executives. This is an opportunity for you to highlight the importance of dam safety to every level of your organization and to ensure that you have the resources you need to ensure the safety of your facilities. As the IFT stated, "compliance with regulatory requirements is not sufficient to manage risk and meet dam owners' legal and ethical responsibilities." We are focusing on how to improve our program to identify and prevent incidents, regardless of magnitude, that could result from similar dam safety and organizational factors that contributed to the

Oroville incident. We expect our regulated dam owners to have similar internal discussions.

The Part 12D inspection program is meant to ensure that there is a “periodic comprehensive review of original design and construction and subsequent performance.” As a follow-up to the Part 12 training courses offered in 2013 and 2014 intended to improve the Part 12D program, we issued revised guidance in Chapter 14, Appendix H of our Engineering Guidelines in August of 2016 to clarify our expectations regarding Part 12D Inspection Reports. Consultants cannot rely on the reputation and expertise of previous consultants to justify their assessment of project safety without providing their own critical independent review. The Oroville IFT indicates that there was no clear evidence that the original design and construction documentation had ever been reviewed since original construction.

The IFT also identified shortcomings with the current Potential Failure Mode Analysis (PFMA) process, noting that it focuses too heavily on uncontrolled release of the reservoir, does not adequately consider interaction of project features, and too often does not reconsider PFMs that have been dismissed previously. As we review the PFMA process in light of the findings, we will communicate any changes that may be required. In the interim, you should keep these findings in mind while performing any new PFMA’s or reviews of existing ones. Broader implementation of our Risk-Informed Decision Making (RIDM) program may also help ameliorate some of these issues, as the PFMA is the foundation of the risk process.

Our expectation that a PFMA is based on all available information will not change, and it cannot be met if the Supporting Technical Information Document (STID) is not maintained as a comprehensive resource. The IFT noted that the Oroville Dam STID “did not contain much of the information which would have helped identify the risks at the two spillways.” As stewards of the STID, project owners must make every

effort to ensure that the documents are complete and all references have been reviewed and are included electronically.

The IFT report highlights the critical importance of your ODSP and a strong top-down dam safety culture within your entire organization. It is critical that you include a thorough review of your ODSP implementation; we have provided FAQs on this topic to assist you in your review, located at <https://www.ferc.gov/industries/hydropower/safety/initiatives/odsp/guidance-odsp.pdf> . If you have any questions, please contact me or the appropriate Regional Engineer for your projects.

Sincerely,

David Capka, P.E.
Director
Division of Dam Safety and Inspections