

CLEAN CHESAPEAKE COALITION

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COUNTY COMMISSIONER

June 18, 2013

John B. Smith, Chief
Mid-Atlantic Branch Division of Hydropower Licensing
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20246

Re: Project No.: 405-106 - Maryland Conowingo Hydroelectric Project
Exelon Generation Company

Dear Mr. Smith:

Thank you for your letter dated June 13, 2013.

In the second paragraph of your letter, you speak about a “pre-filing consultation process that was conducted on the project, including specific opportunities to comment on the design and implementation of studies.” We certainly were not aware that any such process existed. Please advise what, if any, notice was provided by the Federal Energy Regulatory Commission (“FERC” or “Commission”) to any of the below listed Maryland counties, of an opportunity to comment on the design and implementation of studies during a pre-filing consultation process:

Allegany County
Caroline County
Carroll County
Cecil County
Dorchester County
Frederick County
Kent County

We are troubled by the concept that a settlement agreement can be filed by Exelon with supporting documentation that will be given weight by the Commission in making the required environmental determinations. You suggest that “the on-going settlement discussions, until such time as a settlement agreement is filed with the Commission, [] is not part of the Commission’s proceeding.” The Commission, nevertheless, already gave the settlement process weight by agreeing to extend the time for Exelon to file a water quality certification application to the Maryland Department of the Environment because of the pending settlement negotiations.

The objective of the Clean Chesapeake Coalition is to pursue improvement to the water quality of the Chesapeake Bay in a prudent and fiscally responsible manner.

1. When in the proceedings does such a settlement agreement have to be filed?
2. When does the supporting documentation have to be filed?
3. Will the parties that participated in the negotiation of the settlement agreement be identified?

How?

When?

4. How much time will other parties have to review and comment on the documents filed in support of the settlement agreement?
5. How will we, or the public, know whether and what consideration was exchanged among the parties to the settlement agreement outside of the reported terms of the agreement?

Exelon, and Exelon affiliated entities and/or Exelon officials or employees could provide donations of land, money, and other monetary and non-monetary consideration to the parties involved in the settlement agreement.

What disclosure of donations and/or contributions will be required to be made in conjunction with the filing of the settlement agreement?

6. Is Exelon required to permit the local government members of the Clean Chesapeake Coalition to participate in the settlement negotiations?

If not, how, in fairness, can a privately negotiated settlement agreement, the terms of which and/or the circumstances surrounding the negotiations, not be required to be disclosed to the public? How can the Commission give consideration to that type of negotiated agreement?

MPIA Letter John B. Smith, Chief
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We have had the studies prepared by Exelon well in advance of the deadline for comment. There is no due process associated with the settlement negotiations and the information related with the settlement negotiations in which the Commission will act. We await your response to the above questions and thank you in advance for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Ronald H. Fithian" followed by a stylized flourish and the year "1/88".

Ronald H. Fithian
Clean Chesapeake Coalition
Commissioner, Kent County, Maryland

cc: Kimberly D. Bose, Secretary
Emily Carter, Project Coordinator

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