

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**FILED**

SEP 30 2005 10

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )

Plaintiff, )

v. )

EXELON GENERATION CO. LLC )  
(Byron Nuclear Power Station), )

Defendant. )

**05C 5660**  
Civil Action No.

COMPLAINT

JUDGE AMY ST. EVE

MAGISTRATE JUDGE DENLOW

JURY TRIAL DEMAND

**NATURE OF THE ACTION**

This is an action under Title I of the Americans with Disabilities Act of 1990 ("ADA") and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Carl Brandt, David Gorman, Igor Komarck, and Sheila Werland. Defendant Exelon Generation Company LLC (f/k/a Commonwealth Edison Company, Nuclear Division) Byron Nuclear Power Station (hereafter, "Exelon") discriminated against Brandt, Gorman, Komarck, and Werland on the basis of their disabilities by refusing to permit them to work overtime, to promote them to certain positions and/or to train them for certain positions, thus causing them a material and tangible loss of benefits. Exelon further violated the ADA by commingling employee medical and personnel records, failing to limit access to those records and failing to maintain the confidentiality of those records.

**JURISDICTION AND VENUE**

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,

1343, and 1345. This action is authorized and instituted pursuant to § 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference §§ 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, ("Title VII"), 42 U.S.C. §§ 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices hercafter alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois.

### **PARTIES**

3. Plaintiff Equal Employment Opportunity Commission (the "Commission") is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Exelon Generation Company LLC has continuously been and is now a Pennsylvania limited liability company doing business in the State of Illinois and has continuously had and does now have at least fifteen (15) employees.

5. At all relevant times, Defendant Exelon Generation Company LLC has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Section 101(5) of the ADA, 42 U.S.C. § 12111(5), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, Defendant Exelon Generation Company LLC has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

## STATEMENT OF CLAIMS

7. More than thirty (30) days prior to the institution of this lawsuit, Carl Brandt, David Gorman, Igor Komarek, and Sheila Werland filed charges with the Commission alleging violations of Title I of the ADA by Commonwealth Edison Company, whose successor is Exelon Generation Company LLC. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least October, 2000, Exelon Generation Company LLC has engaged in unlawful employment practices at its Byron Nuclear Power Station in Illinois in violation of Sections 102(a), (b)(1), (b)(3)(A) and (d)(4)(C) of Title I of the ADA, 42 U.S.C. §§ 12112(a), (b)(1), (b)(3)(A) and (d)(4)(C). These practices include, but are not limited to:

- (a) refusing to permit Brandt, Gorman, Komarek, and Werland on the basis of their disabilities to work overtime, to promote them to certain positions and/or to train them for certain positions, thus causing them a material and tangible loss of benefits; and
- (b) commingling employee medical and personnel records, failing to limit access to those records and failing to maintain the confidentiality of those records.

9. The effect of the practices complained of above in Paragraph 8 has been to deprive Brandt, Gorman, Komarek, and Werland of equal employment opportunities and otherwise adversely affect their status as employees because of their status as disabled persons, in violation of Title I of the ADA, 42 U.S.C. § 12112.

10. The unlawful employment practices complained of above in Paragraph 8 were and are intentional.

11. The unlawful employment practices complained of above in Paragraph 8 were and are done with malice and/or reckless indifference to the federally protected rights of Brandt, Gorman, Komarek, and Werland.

### PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Exelon Generation Company LLC, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in any employment practice which discriminates on the basis of disability;

B. Order Exelon Generation Company LLC to institute and carry out policies, practices, and programs which provide equal employment opportunities for qualified individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices, including maintaining separate confidential medical files for each employec;

C. Order Exelon Generation Company LLC to make whole Brandt, Gorman, Komarek, and Werland by providing appropriate back pay with pre-judgment interest, in amounts to be proved at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices;

D. Order Exelon Generation Company LLC to make whole Brandt, Gorman, Komarek, and Werland by providing compensation for past and future pecuniary losses resulting from its unlawful employment practices, in amounts to be determined at trial;

E. Order Exelon Generation Company LLC to make whole Brandt, Gorman, Komarek, and Werland by providing compensation for non-pecuniary losses resulting from its unlawful employment practices, including but not limited to, emotional pain, suffering, loss of enjoyment of life and humiliation, in amounts to be determined at trial;

F. Order Exelon Generation Company LLC to pay Brandt, Gorman, Komarek, and Werland punitive damages for its malicious and/or reckless conduct, in amounts to be determined at trial;

G. Order Exelon Generation Company LLC and its successors to provide training to its officers, managers and employees on appropriate conduct in regard to employees who are disabled;

H. Grant such further relief as the Court deems necessary and proper in the public interest; and

I. Grant the Commission its costs in this action.

**JURY TRIAL DEMAND**

The Commission requests a jury trial on all issues of fact raised by its Complaint.

Respectfully submitted,

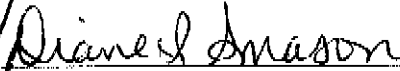
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