In the Matter of

THOMAS Saporito,
Complainant,

v.

EXELON GENERATION AND EXELON NUCLEAR,
Respondent.

ORDER DENYING REQUEST FOR HEARING

On April 7, 2011, the Office of Administrative Law Judges received from Thomas Saporito a filing entitled “Complainant’s Request for a Hearing Before an Administrative Law Judge.” Mr. Saporito asserts that he filed a complaint under the Energy Reorganization Act of 1974, 42 U.S.C. § 5851, against Exelon Generation and Exelon Nuclear, with the Occupational Safety and Health Administration (OSHA), which was assigned to OSHA’s Ft. Lauderdale, Florida office. Mr. Saporito states that he requested that the matter be reassigned to a different OSHA office because the Ft. Lauderdale office appears to be biased against him. Mr. Saporito also states that OSHA has not yet responded to his complaint, and that the investigation is now beyond the 30-day statutory time frame. Mr. Saporito states that he consequently waives his right to an OSHA investigation and instead requests an administrative law judge (ALJ) hearing. He further requests that the instant matter be assigned to Administrative Law Judge Pamela J. Lakes who currently has another matter pending before her involving the same parties.

As noted in Love v. United States Environmental Protection Agency, 2008-CAA-5 (ALJ Aug. 27, 2008), the statutory and regulatory schemes clearly contemplate an investigation prior to a hearing before an ALJ. The Complainant’s filing does not state grounds warranting the initiation of the ALJ hearing process prior to OSHA’s issuance of
written findings under 29 C.F.R. § 24.105. Accordingly, the Complainant’s request is **DENIED** and the above-referenced OALJ Case Number is administratively closed.

**SO ORDERED.**

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STEPHEN L. PURCELL
Chief Administrative Law Judge