

Westinghouse Electric Company
CE Nuclear Power LLC



2000 Day Hill Road
Windsor, CT 06095
USA

January 05, 2001
LD-2001-0001

U.S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

**Subject: Transmittal of Approved Topical Report CENPD-390-P-A
(Enclosure Contains Proprietary Information)**

Reference: Letter, S. A. Richards (NRC) to I. C. Rickard (CENP), "Acceptance For Referencing of CENPD-390-P, The Advanced PHOENIX and POLCA Codes for Nuclear Design of Boiling Water Reactors (TAC MA5659)," dated July 24, 2000

Letter, I. C. Rickard (ABB CENP) to US NRC Document Control Desk, "Submittal of CENPD-390-P for Review and Acceptance," LD-99-023, dated April 15, 1999

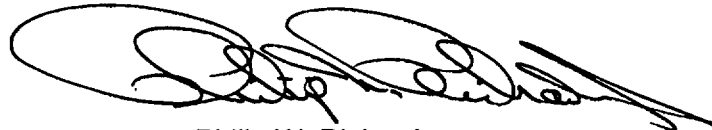
By the Reference letter dated July 24, 2000, the Nuclear Regulatory Commission (NRC) issued its Safety Evaluation relating to CE Nuclear Power LLC (CENP) topical report CENPD-390-P, "The Advanced PHOENIX and POLCA Codes for Nuclear Design of Boiling Water Reactors." This report was submitted for staff review by means of the letter dated April 15, 1999 referenced above. By this letter, CENP herewith submits one (1) proprietary and one (1) unbound non-proprietary copy of the approved topical reports for NRC records.

CENP has determined that topical report CENPD-390-P-A, Rev. 00 contains information that is proprietary in nature. Consequently, it is requested that the topical report be withheld from public disclosure in accordance with the provisions of 10 CFR 2.790 and that this information be appropriately safeguarded. The reasons for the classification of this information as proprietary were delineated in the affidavit provided with letter LD-99-023; a copy of that affidavit is attached.

*TOOM
ADD: Jack Cushing
to erids*

If you have any questions regarding this matter, please do not hesitate to call me or Virgil Paggen of my staff at 860-285-4700.

Sincerely,
CE Nuclear Power LLC

A handwritten signature in black ink, appearing to read 'Philip W. Richardson', with a large, stylized initial 'P'.

Philip W. Richardson
Licensing Project Manager

Attachment: Proprietary Affidavit for CENPD-390-P-A, Rev. 00

Enclosure: CENPD-390-P-A, Rev. 00, (Proprietary) "The Advanced PHOENIX and POLCA Codes for Nuclear Design of Boiling Water Reactors," December 2000 (1 copy)
2) CENPD-390-A, Rev. 00, (Non-Proprietary) "The Advanced PHOENIX and POLCA Codes for Nuclear Design of Boiling Water Reactors," December 2000 (1 unbound copy)

xc: J. S. Cushing (NRC) w/2 proprietary copies and 1 non-proprietary copy

AFFIDAVIT PURSUANT

TO 10 CFR 2.790

I, Ian C. Rickard, depose and say that I am the Director, Nuclear Licensing, of Combustion Engineering, Inc., duly authorized to make this affidavit, and have reviewed or caused to have reviewed the information which is identified as proprietary and referenced in the paragraph immediately below. I am submitting this affidavit in conformance with the provisions of 10 CFR 2.790 of the Commission's regulations for withholding this information.

The information for which proprietary treatment is sought is contained in the following document:

CENPD-390-P, "The Advanced Phoenix and POLCA Codes for Nuclear Design of Boiling Water Reactors", April, 1999

This document has been appropriately designated as proprietary.

I have personal knowledge of the criteria and procedures utilized by Combustion Engineering in designating information as a trade secret, privileged or as confidential commercial or financial information.

Pursuant to the provisions of paragraph (b) (4) of Section 2.790 of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure, included in the above referenced document, should be withheld.

1. The information sought to be withheld from public disclosure, is owned and has been held in confidence by Combustion Engineering. It consists of nuclear design computer code methods descriptions and code benchmark results against experimental and plant data.
2. The information consists of test data or other similar data concerning a process, method or component, the application of which results in substantial competitive advantage to Combustion Engineering.
3. The information is of a type customarily held in confidence by Combustion Engineering and not customarily disclosed to the public. Combustion Engineering has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The details of the aforementioned system were provided to the Nuclear Regulatory Commission via

letter DP-537 from F. M. Stern to Frank Schroeder dated December 2, 1974. This system was applied in determining that the subject document herein is proprietary.

4. The information is being transmitted to the Commission in confidence under the provisions of 10 CFR 2.790 with the understanding that it is to be received in confidence by the Commission.
5. The information, to the best of my knowledge and belief, is not available in public sources, and any disclosure to third parties has been made pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence.
6. Public disclosure of the information is likely to cause substantial harm to the competitive position of Combustion Engineering because:
 - a. A similar product is manufactured and sold by major pressurized water reactor competitors of Combustion Engineering.
 - b. Development of this information by Combustion Engineering required millions of dollars and thousands of manhours of effort. A competitor would have to undergo similar expense in generating equivalent information.
 - c. In order to acquire such information, a competitor would also require considerable time and inconvenience to develop nuclear design computer code methods descriptions and code benchmark results against experimental and plant data.
 - d. The information consists of nuclear design computer code methods descriptions and code benchmark results against experimental and plant data, the application of which provides a competitive economic advantage. The availability of such information to competitors would enable them to modify their product to better compete with Combustion Engineering, take marketing or other actions to improve their product's position or impair the position of Combustion Engineering's product, and avoid developing similar data and analyses in support of their processes, methods or apparatus.
 - e. In pricing Combustion Engineering's products and services, significant research, development, engineering, analytical, manufacturing, licensing, quality assurance and other costs and expenses must be included. The ability of Combustion Engineering's competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.

- f. Use of the information by competitors in the international marketplace would increase their ability to market nuclear steam supply systems by reducing the costs associated with their technology development. In addition, disclosure would have an adverse economic impact on Combustion Engineering's potential for obtaining or maintaining foreign licensees.

Further the deponent sayeth not.



Ian C. Rickard, Director
Nuclear Licensing

Sworn to before me
this 15th day of April, 1999



Notary Public

My commission expires: 8/31/99