

February 06, 2001

Mr. Philip W. Richardson, Manager
Windsor Nuclear Licensing
Westinghouse Electric Company
CE Nuclear Power, LLC
P.O. Box 500
2000 Day Hill Road
Windsor, CT 06095-0500

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
CE NUCLEAR POWER, LLC (CENP).

Dear Mr. Richardson:

By your letter dated January 5, 2001 and affidavit dated January 3, 2001, you submitted meeting slides entitled "BWR Control Rod and Fuel Performance Proprietary Discussion Materials" and requested that they be withheld from public disclosure pursuant to 10 CFR 2.790. The slides were presented to the staff in a meeting held on January 9, 2001, at NRC headquarters in Rockville, Maryland. A nonproprietary version of the slides has been placed in the NRC public document room and added to the Agencywide Documents Access and Management Systems Publicly Available Records System (ADAMS PARS) Library.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- "vi. a. A similar product is produced by major competitors of CENP.
- b. Development of this information by CENP required hundreds of thousands of dollars and thousands of manhours of effort. A competitor would have to undergo similar expense in generating equivalent information.
- c. The information consists of design, qualification and licensing information for BWR control rods, and performance information for BWR fuels, the application of which provides a competitive economic advantage. The availability of such information to competitors would enable them to design their product to better compete with CENP, take marketing or other actions to improve their product's position or impair the position of CENP's product, and avoid developing similar technical analysis in support of their processes, methods or apparatus.
- d. In pricing CENP's products and services, significant research, development, engineering, analytical, manufacturing, licensing, quality assurance and other costs and expenses must be included. The ability of CENP's competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.

- e. Use of the information by competitors in the international marketplace would increase their ability to market competing systems by reducing the costs associated with their technology development.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the slides entitled "BWR Control Rod and Fuel Performance Proprietary Discussion Materials," marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-1424.

Sincerely,

/RA/

Jack Cushing, Project Manager, Section 2
Project Directorate IV & Decommissioning
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Project No. 692

cc: See next page

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