

March 13, 2001

Mr. Phillip 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
FOR PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3 -
ISSUANCE OF AMENDMENTS ON CASMO-4/SIMULATE-3 (TAC NOS.
MA9279, MA9280, AND MA9281)

Dear Mr. Richardson:

By the letter dated June 8, 2000, Arizona Public Service Company (APS) submitted a request for amendments to the Technical Specifications for the Palo Verde Nuclear Generating Station, Units 1, 2, and 3 (Palo Verde) to add a reference to CASMO-4/SIMULATE-3 to TS 5.6.5, "Core Operating Limits Report (COLR)." Enclosure 2 of that letter was the proprietary version of the pressurized-water reactor physics methodology using CASMO-4/STIMULATE-3 that was submitted to support the application for the amendments, and Enclosure 3 was the non-proprietary version.

By the letters of June 8, 2000, and February 8, 2001, from APS, and the affidavit dated January 29, 2001, signed by you, it was requested that the Nuclear Regulatory Commission (NRC) withhold the information designated as proprietary information within brackets (i.e., [...]) on pages 17, 18, 76, 79, 81, 82, 94, 95, 108 through 111, 113, 115, 117, 119 through 123, 128, 130, 131, 135, 136, 141, 177, 180, 181, 185, 186, 188, and 189 (marked proprietary on the upper right hand side of the pages) in Enclosure 2 of the application dated June 8, 2000.

The affidavit stated that information designated proprietary in Enclosure 2 of the application dated June 8, 2000, should be exempt from mandatory public disclosure for the following reasons:

1. The information sought to be withheld from public disclosure is owned and has been held in confidence by CE Nuclear Power LLC (CENP).
2. The information consists of test data or similar data concerning a process, method or component, the application of which results in substantial competitive advantage to CENP.
3. The information is of a type customarily held in confidence by CENP and not customarily disclosed to the public. CENP 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.

4. The information, to the best of CENP's 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.
5. Public disclosure of the information is likely to cause substantial harm to the competitive position of CENP because:
 - a. A similar product is manufactured and sold by major pressurized water reactor competitors of CENP.
 - b. Development of this information by CENP required hundreds of thousands of dollars and thousands of man-hours 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 similar biases, uncertainties, and other statistical data and methods to those from CENPD-153P, "Evaluation of Uncertainty in the Nuclear Form Factor Measured by Self-Powered Fixed In-Core Detector Systems;" CENPD-266-P, "The ROCS and DIT Computer Codes for Nuclear Design;" CENPD-382-P, "Methodology for Core Designs Containing Erbium Burnable Adsorbers, Part I - Material Properties and Behavior" and Supplement 1, "Methodology for Core Designs Containing Erbium Burnable Adsorbers, Part II - Physics Properties, Methods and Performance Verification;" and the verified ENDF/B-VI DIT cross section library biases and uncertainties presented in Enclosure 1-P to LD-99-016, "Application of a DIT Cross Section Library Based on ENDF/B-VI."
 - d. The information sought to be withheld from public disclosure consists of biases, uncertainties, and other statistical data and methods from the documents listed in 5.c above, 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 CENP, take marketing or other actions to improve their product's position or impair the position of CENP's product, and avoid developing similar data and analyses in support of their processes, methods, or apparatus.
 - e. 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.
 - 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 CENP's potential for obtaining or maintaining foreign licensees.

We have reviewed your application and the material sought to be withheld from public disclosure 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, in accordance with 10 CFR 2.790(b)(5), be withheld from public disclosure. Therefore, the information in Enclosure 2 to the application dated June 8, 2000, which is designated as proprietary and presented in brackets on the pages listed on page 1 of this letter, 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 information. 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 of this fact. You should also 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 this information. In all review situations, if the NRC makes a determination adverse to the above determination, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, please contact me at 301-415-1307, or through the internet at jnd@nrc.gov.

Sincerely,

/RA/

Jack N. Donohew, Senior Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. STN 50-528, STN 50-529,
and STN 50-530

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/RA/

Jack N. Donohew, Senior Project Manager, Section 2
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Docket Nos. STN 50-528, STN 50-529,
and STN 50-530

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Palo Verde Generating Station, Units 1, 2, and 3

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