

December 20, 2001

Mr. Richard Bernier, Chairman
CE Owners Group
Mail Stop 7868
Arizona Public Service Company
Palo Verde Nuclear Generating Station
P.O. Box 52034
Phoenix, Arizona 85072-2034

SUBJECT: RESPONSE TO COMMENTS ON THE OFFICE OF NUCLEAR REACTOR
REGULATION (NRR) OFFICE INSTRUCTION LIC-204, "HANDLING
REQUESTS TO WITHHOLD PROPRIETARY INFORMATION FROM PUBLIC
DISCLOSURE"

Dear Mr. Bernier:

The NRC staff appreciates stakeholder feedback on our processes. This feedback enables us to make our processes more efficient and less burdensome. By letter dated August 14, 2001, you provided comments from the Combustion Engineering Owners Group (CEOG) on Office Instruction LIC-204. LIC-204 provides the staff in NRR with guidance on handling requests to withhold proprietary information from public disclosure. Of particular concern to the CEOG is Section 4.7, which recommends that proprietary material to be discussed at a meeting with the NRC staff be submitted at least 30 days prior to the meeting date. The CEOG considers that the requirement to submit slides and other meeting material 30 days before the meeting imposes an unnecessary regulatory burden.

In order to keep the public informed, the staff notices public meetings on our web site at least 10 days prior to the meeting. If proprietary information is to be discussed at the meeting then the meeting notice indicates that the proprietary portions of the meeting will be closed to the public. The staff needs to have a basis to close the meeting to the public. The basis for the 30-day advance notice request in LIC-204 is that submitting the proprietary information 30 days prior to the meeting would provide the staff with sufficient time to make a proprietary determination and still meet the 10-day timeframe to notice a meeting.

This lead time, as you point out, places a burden on licensees and others to plan a meeting and develop meeting materials well over a month in advance of a meeting. I discussed the situation with Mr. Richardson of your staff to develop the most efficient and least burdensome approach to handling proprietary information in public meetings.

The approach developed is to divide meetings involving proprietary information into two categories. The first category involves meetings to discuss material where the staff already has made a determination. An example of this type of meeting is one to discuss a proprietary topical report (TR) which was previously submitted in accordance with 10 CFR 2.790. The staff would use the proprietary determination for the TR as the basis for closing the proprietary portion of the meeting to the public. The affidavit for the TR should be less than a year old. If more than one year old, a new affidavit is required. The actual meeting material which constitutes TR documentation in a new format (e.g., slides, viewgraphs, handouts) requires its

own affidavit submitted prior to the meeting. However, so long as the content of this material is the same as was previously deemed proprietary by the staff (within one year), the staff's proprietary determination for the meeting materials may be made subsequent to the meeting.

The second category deals with situations in which the staff does not have a previously-submitted basis for closing the meeting. In this instance the licensee/vendor would have to submit preliminary proprietary information with an affidavit 30 days in advance, so that the staff can have a basis for closing the proprietary portions of the meeting to the public. This information can, but does not have to be, the final meeting material. However it must contain enough specificity to enable the staff to make a determination. The final meeting materials discussed at the meeting must contain the same content as the preliminary information, but do not necessarily have to be in the same form.

The staff plans to revise LIC-204 in the near future to reflect this change and other comments received from stakeholders. Again, we appreciate your feedback as a valuable tool for the staff to improve its processes.

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
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Project No. 692

cc: See next pages

own affidavit submitted prior to the meeting. However, so long as the content of this material is the same as was previously deemed proprietary by the staff (within one year), the staff's proprietary determination for the meeting materials may be made subsequent to the meeting.

The second category deals with situations in which the staff does not have a previously-submitted basis for closing the meeting. In this instance the licensee/vendor would have to submit preliminary proprietary information with an affidavit 30 days in advance, so that the staff can have a basis for closing the proprietary portions of the meeting to the public. This information can, but does not have to be, the final meeting material. However it must contain enough specificity to enable the staff to make a determination. The final meeting materials discussed at the meeting must contain the same content as the preliminary information, but do not necessarily have to be in the same form.

The staff plans to revise LIC-204 in the near future to reflect this change and other comments received from stakeholders. Again, we appreciate your feedback as a valuable tool for the staff to improve its processes.

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
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Project No. 692

cc: See next pages

DISTRIBUTION:

PUBLIC

PDIV-2 R/F

RidsNrrPMJCushing

RidsNrrLAEPeyton

RidsNrrDlpmLpdiv (SRichards)

DAshley

HBerkow

MWebb

MPSiemien

RMoody

*For previous concurrences see attached ORC

ACCESSION NO.: ML012820322

OFFICE	PDIV-2/PM	PDIV-2/LA	PDII/PM*	PDII/BC	OGC
NAME	JCushing:as	EPeyton:	DAshley	HBerkow	MPSiemien
DATE	12/20/01	12/5/01	11/07/01	12/5/01	12/19/01

OFFICE	PDIV-2/SC
NAME	SDembek
DATE	12/20/2001

OFFICIAL RECORD COPY

CE Owners Group

Project No. 692

cc:

Mr. Gordon C. Bischoff, Program Manager
CE Owners Group
Westinghouse Electric Company LLC
Mail Stop 125020 - 0407
2000 Day Hill Road
Windsor, CT 06095-0500

Mr. Andrew P. Drake, Project Manager
Westinghouse Owners Group
Westinghouse Electric Company LLC
Mail Stop ECE 5-16
P.O. Box 355
Pittsburgh, PA 15230-0355

Mr. Charles B. Brinkman, Director
Washington Operations
Westinghouse Electric Company LLC
12300 Twinbrook Parkway, Suite 330
Rockville, MD 20852

Mr. Virgil A. Paggen
Westinghouse Electric Company LLC
Mail Stop 126009 - 1901
2000 Day Hill Road
Windsor, CT 06095-0500

cc:

Mr. Guy G. Campbell, Chairman
B&WOG Executive Committee
Vice President - Nuclear
FirstEnergy Nuclear Operating Company
Davis-Besse Nuclear Power Station
5501 North State Rt. 2
Oak Harbor, OH 43449

Mr. James Mallay, Director
Regulatory Affairs
2101 Horn Rapids Road
Richland, WA 99352

Ms. Sherry L. Bernhoft, Chairman
B&WOG Steering Committee
Florida Power Corporation
Crystal River Energy Complex
15760 West Power Line St.
Crystal River, FL 34428-6708

Mr. J. J. Kelly, Manager
B&W Owners Group Services
Framatome Technologies, Inc.
P.O. Box 10935
Lynchburg, VA 24506-0935

Mr. F. McPhatter, Manager
Framatome Cogema Fuels
3315 Old Forest Road
P.O. Box 10935
Lynchburg, VA 24506-0935

Mr. R. Schomaker, Manager
Framatome Cogema Fuels
3315 Old Forest Road
P.O. Box 10935
Lynchburg, VA 24506-0935

Mr. Michael Schoppman
Licensing Manager
Framatome Technologies, Inc.
1700 Rockville Pike, Suite 525
Rockville, MD 20852-1631

BWR Owners Group

Project No. 691

cc:

Mr. James M. Kenny, Chairman
BWR Owner's Group
PPL, Inc.
M/C GENA6-1
Two North Ninth Street
Allentown, PA 18101

Mr. H. Lewis Sumner
Southern Nuclear Company
40 Inverness Center Parkway
PO Box 1295
Birmingham, AL 35242

Mr. Carl D. Terry
Vice President, Nuclear Engineering
Niagara Mohawk Power Corporation
Nine Mile Point - Station
OPS Bldg/2nd Floor
PO Box 63
Lycoming, NY 13093

Mr. George T. Jones
PPL, Inc.
MC A6-1
Two North Ninth Street
Allentown, PA 18101

Mr. Thomas G. Hurst
GE Nuclear Energy
M/C 782
175 Curtner Avenue
San Jose, CA 95125

Mr. Thomas A. Green
GE Nuclear Energy
M/C 782
175 Curtner Avenue
San Jose, CA 95125

Mr. William H. Bolke
Exelon
1400 Opus Place, Suite 400
Downers Grove, IL 60515

Mr. J. A. Gray, Jr., Vice Chairman
BWR Owners Group
Entergy Nuclear Northeast
440 Hamilton Avenue
White Plains, NY 10601-5029

Mr. William A. Eaton
ENTERGY
Grand Gulf Nuclear Station
P.O. Box 756
Port Gibson, MS 39150

Mr. Mark Bezilla
PSEG NUCLEAR
Hope Creek Generating Station
P.O. Box 236
M/C H07
Hancocks Bridge, NJ 08038

Mr. James F. Klapproth
GE Nuclear Energy
M/C 706
175 Curtner Avenue
San Jose, CA 95125

Westinghouse Owners Group

Project No. 694

cc:

Mr. H. A. Sepp, Manager
Regulatory and Licensing Engineering
Westinghouse Electric Corporation
P.O. Box 355
Pittsburgh, PA 15230-0355

Mr. Andrew Drake, Project Manager
Westinghouse Owners Group
Westinghouse Electric Corporation
Mail Stop ECE 5-16
P.O. Box 355
Pittsburgh, PA 15230-0355

Electric Power Research Institute

Project No. 669

cc:

Mr. James Lang

Director

EPRI

1300 W.T. Harris Boulevard

Charlotte, NC 28262

Dr. Theodore U. Marston

Vice President and Chief Nuclear Officer

EPRI

3412 Hillsview Avenue

Palo Alto, CA 94304

Mr. Gary Vine

Sr. Washington Representative

EPRI

2000 L St. NW, Suite 805

Washington, DC 20036