

February 6, 2002

Mr. Glen A. Watford
Global Nuclear Fuel-Americas, L.L.C.
3902 Castle Hayne Road
Wilmington, NC 28402

SUBJECT: GLOBAL NUCLEAR FUEL-AMERICAS, L.L.C., REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE FOR BROWNS FERRY
NUCLEAR PLANT UNIT 3 (TAC NO. MB3485)

Dear Mr. Watford:

By letter dated November 1, 2001, Tennessee Valley Authority submitted an affidavit dated October 10, 2001, executed by you, requesting that the following document be withheld from public disclosure pursuant to Title 10, *Code of Federal Regulations* (10 CFR) Section 2.790:

Global Nuclear Fuel-Americas, L.L.C. Entitled "Additional Information Regarding the Cycle Specific SLMCPR for Browns Ferry Unit 3 Cycle 11."

A nonproprietary copy of this document has been placed in the Nuclear Regulatory Commission (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:

- (4)a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by Global Nuclear Fuel-Americas, L.L.C.'s (GNF-A's) competitors without license from GNF-A constitutes a competitive economic advantage over other companies.
- (4)b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
- (8) The information identified is proprietary because it contains details of GNF-A's fuel design and licencing methodology.

The development of the methods used in these analyses, along with the testing, development, and approval methodology was achieved at a significant cost, on the order of several million dollars, to GNF-A or its licensor.

- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GNF-A's competitive position and foreclose or reduce the

availability of profit-making opportunities. The fuel design and licensing methodology is part of GNF-A's comprehensive BWR safety and technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical and NRC review costs comprise a substantial investment of time and money by GNF-A or its licensor.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

GNF-A's competitive advantage will be lost if its competitors are able to use the results of the GNF-A experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to GNF-A would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive GNF-A of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable analytical tools.

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 submitted documents 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

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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) 415-1390.

Sincerely,

/RA by J. Goshen Acting for/

Allen G. Hansen, Project Manager, Section 2
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-296

cc: See next page

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*See previous concurrence

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Mr. J. A. Scalice
Tennessee Valley Authority

BROWNS FERRY NUCLEAR PLANT

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