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Fred Dacimo
Vice President, Operations

July 18, 2003

Re: Indian Point Unit No. 2
Docket No. 50-247
NL-03-117

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Mail Station O-P1-17
Washington, DC 20555-0001

Subject: Application for Withholding Proprietary Information from Public Disclosure

Reference: 1) Entergy letter (NL-02-148) to NRC, "Response to Request for Additional Information Regarding Sections 3.3.1, 3.5.3, 3.7.8, 3.8.3, 3.8.4, and 3.8.6 of the Improved Technical Specifications (ITS) (TAC Nos. MB5062, MB5069, MB5067, MB5070, MB6394, MB6396, MB6397, MB6398 and MB6399)," dated November 26, 2002

Dear Sir:

In letter dated November 26, 2002 (Reference 1), Entergy Nuclear Operations, Inc. (Entergy) requested that Specification No. FIX-95-A-001, Revision 1, "Guidelines for Preparation of Instrument Loop Accuracy and Setpoint Determination Calculations," (Attachment 2) be withheld from public disclosure. There is no Non-Proprietary version of this document. Therefore, in accordance with 10 CFR 2.790(b)(1), Entergy is submitting this application for withholding proprietary information and an accompanying affidavit (Attachment 1).

The proprietary information requested to be withheld in the above-referenced specification is identified in the attached affidavit signed by me on behalf of Entergy, the owner of the proprietary information. The affidavit sets forth the basis on which the information should be withheld from public disclosure by the Commission and specifically addresses the considerations listed in 10 CFR 2.790(b)(4) of the Commission's regulations.

There are no commitments contained in this letter.

Correspondence with respect to the proprietary aspects of the application for withholding or the Entergy affidavit should reference this letter and should be addressed to Mr. William S. Blair, Manager Improved Technical Specification Project. Mr. Blair can be reached at (914) 734-5336.

APOI

I declare under penalty of perjury that the foregoing is true and correct.

Sincerely,

A handwritten signature in black ink, appearing to read 'Fred R. Dacimo', written over a horizontal line.

Fred R. Dacimo
Vice President, Operations

Executed on 7/18/03

Attachments

cc: See page 3

cc:

Mr. Hubert J. Miller
Regional Administrator-Region I
U.S. Nuclear Regulatory Commission
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King of Prussia, PA 19406

Mr. Patrick D. Milano, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
U.S. Nuclear Regulatory Commission
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Washington, DC 20555

Senior Resident Inspector (w/o Attachment 2)
U.S. Nuclear Regulatory Commission
P.O. Box 38
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Mayor, Village of Buchanan (w/o Attachment 2)
236 Tate Avenue
Buchanan, NY 10511

Mr. Paul Eddy (w/o Attachment 2)
NYS Department of Public Service
3 Empire State Plaza
Albany, NY 12223-1350

Mr. William Flynn (w/o Attachment 2)
NYS ERDA
Corporate Plaza West
286 Washington Ave. Extension
Albany, NY 12203

ATTACHMENT 1 TO NL-03-117

AFFIDAVIT

**Entergy Nuclear Operations, Inc.
Indian Point Unit No. 2
Docket No. 50-247**

AFFIDAVIT

STATE OF NEW YORK:

ss

COUNTY OF WESTCHESTER:

Before me, the undersigned authority, personally appeared Fred Dacimo, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Entergy Nuclear Operations, Inc. (Entergy), and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:

- (1) I am Sr. Vice President – Operations, Indian Point Energy Center, Entergy Nuclear Operations, Inc. (Entergy), and as such, I have the authority to determine proprietary information sought to be withheld from public disclosure in connection with nuclear power plant licensing and rule making proceedings, and am authorized to apply for its withholding on behalf of Entergy.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR 2.790 and in conjunction with the Entergy application for withholding public disclosure, which accompanies this Affidavit.
- (3) Pursuant to the provisions of 10 CFR 2.790(b)(4), the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.
 - (i) The information sought to be withheld from public disclosure is owned and has been held in confidence by Entergy.
 - (ii) The information is of a type customarily held in confidence by Entergy and not customarily disclosed to the public. Entergy 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 application of that system and the substance of that system constitute Entergy policy and provide the rational basis required.

Under that system, information is held in confidence if it falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

- (a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any of Entergy's competitors without license from Entergy constitutes a competitive economic advantage.
- (b) It consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), the application of which data secures a competitive economic advantage, e.g., by optimization or improved operation.
- (c) Its use 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 a similar product.
- (d) It reveals cost or price information, production capacities, budget levels, or commercial strategies of Entergy or its suppliers.
- (e) It reveals aspects of past, present, or future Entergy funded development plans and programs of potential commercial value to Entergy.
- (f) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the Entergy system which include the following:

- (a) The use of such information by Entergy gives Entergy a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the Entergy competitive position.
- (b) It is information that is marketable in many ways. The extent to which such information is available to competitors diminishes the Entergy ability to sell products and services involving the use of the information.
- (c) Use by our competitor would put Entergy at a competitive disadvantage by reducing his expenditure of resources at our expense.

- (d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving Entergy of a competitive advantage.
 - (e) Unrestricted disclosure would jeopardize the position of prominence of Entergy in the market, and thereby give a market advantage to the competition.
 - (f) The Entergy capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.
- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR 2.790; it is to be received in confidence by the Commission.
 - (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
 - (v) The proprietary information sought to be withheld in this submittal is Specification No. FIX-95-A-001, Revision 1, "Guidelines for Preparation of Instrument Loop Accuracy and Setpoint Determination Calculations" (Proprietary), dated November 8, 2001, being transmitted by Entergy Nuclear Northeast letter and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted for use by Entergy Nuclear Operations, Inc. for Indian Point Unit 2 is expected to be applicable for other licensee submittals regarding preparation of instrument loop accuracy and setpoint determination calculations.

This information is part of that which will enable Entergy to:


- (a) Provide a response to NRC questions on the Indian Point Unit 2 instrument loop accuracy and setpoint determination calculations.
- (b) Provide a quantitative technical justification for instrument loop accuracy and setpoint determination calculations.
- (c) Assist Entergy Nuclear Northeast in obtaining a license amendment for instrument loop accuracy and setpoint determination calculations.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Entergy because it would enhance the ability of competitors to provide similar calculations and licensing defense services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

The development of the technology described in part by the information is the result of applying the results of many years of experience in an intensive Entergy effort and the expenditure of a considerable sum of money.

In order for competitors of Entergy to duplicate this information, similar technical programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended.

Further affiant sayeth not.


Fred R. Dacimo
Vice President, Operations

Sworn to and subscribed
before me this 16 day
of July, 2003


Notary Public

