

August 10, 2007

Mr. R. M. Krich, Senior Vice President  
Regulatory Affairs  
UniStar Nuclear  
750 E. Pratt Street  
14<sup>th</sup> Floor  
Baltimore, MD 21202-3106

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

Dear Mr. Krich:

By application dated July 13, 2007 and associated affidavit dated July 12, 2007 (ADAMS Accession No. ML071980292), you submitted a partial Combined License Application for Calvert Cliffs Nuclear Power Plant, Unit 3. You submitted a redacted non-proprietary version of the application for release to the public and a Proprietary Information Binder that contained the proprietary portions of the application. You requested that the information marked as proprietary be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations*, Section 2.390 (10 CFR 2.390).

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

- (1) If the proprietary information was publicly disclosed, UniStar Nuclear and Constellation Generation would suffer irreparable and incalculable harm. Specifically, UniStar Nuclear's competitors would gain valuable insight into otherwise unavailable business strategies, plans, and financial details,
- (2) By knowing the subject information, UniStar Nuclear's competitors would obtain an unfair commercial advantage that would significantly affect UniStar Nuclear's ability to compete,
- (3) Financial information, by its nature is treated as confidential. The specific financial details in the proprietary information have not been released. Accordingly, withholding the proprietary information from disclosure will not adversely affect the public.

In addition, as required by 10 CFR 50.33(g), your combined license application contained copies of state and local jurisdictions's emergency response plans. Your application included a copy of a letter from the Director of the St. Mary's County Department of Public Safety that requested the emergency response plan be withheld pursuant to 10 CFR 2.390(d)(1). You included this information in the Proprietary Information Binder.

By letter dated August 2, 2007 (ML072200524), you informed the NRC that you inadvertently included proprietary information in the July 13, 2007 application. You provided redacted non-proprietary versions of the application and additional pages to be included in the Proprietary Information Binder. In the same letter you requested by application and affidavits dated August 2, 2007, that the NRC withhold this information from public disclosure. You cited the reasons stated above to support your withholding request.

We have reviewed your applications and the associated materials in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld in your July 13 and August 2, 2007 letters contains proprietary commercial information in the form of financial information obtained from a person and is privileged or confidential. Therefore, the NRC will withhold this information from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended. In addition, the NRC will also withhold the St. Mary's County emergency response plan as requested.

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) 415-1311.

Sincerely,

**/RA/**

Larry J. Burkhart, Senior Project Manager  
EPR Projects Branch  
Division of New Reactor Licensing  
Office of New Reactors

cc: See next page

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Sincerely,  
/RA/

Larry J. Burkhart, Senior Project Manager  
EPR Projects Branch  
Division of New Reactor Licensing  
Office of New Reactors

cc: See next page

ACCESSION NUMBER: ML072220200

OFFICE	DNRL/NARP:LA	DNRL/NARP:PM	DNRL/NARP:BC
NAME	PCoates	LBurkhart	JColaccino
DATE	08/10/07	08/10/07	08/10/07

**OFFICIAL RECORD COPY**

cc:

Mr. Richard L. Baker  
Bechtel Power Corporation  
5275 Westview Drive  
Frederick, MD 21703-8306

Ms. Patricia T. Birnie, Esquire  
Co-Director  
Maryland Safe Energy Coalition  
P. O. Box 33111  
Baltimore, MD 21218

Ms. Michele Boyd  
Legislative Director  
Energy Program  
Public Citizens Critical Mass Energy  
and Environmental Program  
215 Pennsylvania Avenue, SE  
Washington, DC 20003

Ms. Kristen A. Burger  
Maryland People's Counsel  
6 St. Paul Centre  
Suite 2102  
Baltimore, MD 21202-1631

Mr. Marvin Fertel  
Senior Vice President  
and Chief Nuclear Officer  
Nuclear Energy Institute  
1776 I Street, NW  
Suite 400  
Washington, DC 20006-3708

Mr. Carey Fleming, Esquire  
Senior Counsel - Nuclear Generation  
Constellation Generation Group, LLC  
750 East Pratt Street, 17th Floor  
Baltimore, MD 21202

Mr. Jay S. Gaines  
Director, Licensing  
Calvert Cliffs Nuclear Power Plant  
1650 Calvert Cliffs Parkway  
Lusby, MD 20657-4702

Mr. Ray Ganthner  
AREVA, Framatome ANP, Inc.  
3315 Old Forest Road  
P.O. Box 10935  
Lynchburg, VA 24506-0935

Mr. Brian Hastings  
Public Utility Commission  
William B. Travis Building  
P.O. Box 13326  
1701 Noth Congress Avenue  
Austin, TX 78701-3326

Mr. Roy Hickok  
NRC Technical Training Center  
5700 Brainerd Road  
Chattanooga, TN 37411-4017

Arjun Makhijani  
IEER  
6935 Laurel Ave., Suite 201  
Takoma Park, MD 20912

Dr. Gail H. Marcus  
U.S. Department of Energy  
Room 5A-143  
1000 Independence Avenue, SW  
Washington, DC 20585

Mr. Norris McDonald  
AAEA  
9903 Caltor Lane  
Ft. Washington, MD 20744

Mr. R. I. McLean  
Nuclear Programs  
Power Plant Research Program  
Maryland Department of Natural Resources  
580 Taylor Avenue (B wing, 3rd floor)  
Tawes State Office Building  
Annapolis, MD 21401

Charles Peterson  
Pillsbury, Winthrop, Shaw & Pittman, LLP  
2300 "N" Street, NW  
Washington, DC 20037

President  
Calvert County Board of Commissioners  
175 Main Street  
Prince Frederick, MD 20678

Regional Administrator, Region I  
U. S. Nuclear Regulatory Commission  
475 Allendale Road  
King of Prussia, PA 19406

Resident Inspector  
U.S. Nuclear Regulatory Commission  
P. O. Box 287  
St. Leonard, MD 20685

Mr. David W. Sutherland  
Chesapeake Bay Field Office  
U.S. Fish and Wildlife Service  
177 Admiral Cochrane Drive  
Annapolis, MD 21401

Email

APH@NEI.org (Adrian Heymer)  
awc@nei.org (Anne W. Cottingham)  
bennettS2@bv.com (Steve A. Bennett)  
BrinkmCB@westinghouse.com (Charles Brinkman)  
carey.fleming@constellation.com (Carey Fleming)  
chris.maslak@ge.com (Chris Maslak)  
cwaltman@roe.com (C. Waltman)  
david.lewis@pillsburylaw.com (David Lewis)  
dlochbaum@UCSUSA.org (David Lochbaum)  
frankq@hursttech.com (Frank Quinn)  
george.wrobel@constellation.com (George Wrobel)  
greshaja@westinghouse.com (James Gresham)  
gzinke@entergy.com (George Alan Zinke)  
jcurtiss@winston.com (Jim Curtiss)  
jgutierrez@morganlewis.com (Jay M. Gutierrez)  
jim.riccio@wdc.greenpeace.org (James Riccio)  
JJNesrsta@cpsenergy.com (James J. Nesrsta)  
john.o'neil@pillsburylaw.com (John O'Neil)  
Joseph.savage@ge.com (Joseph Savage)  
Joseph\_Hegner@dom.com (Joseph Hegner)  
KSutton@morganlewis.com (Kathryn M. Sutton)  
kwaugh@impact-net.org (Kenneth O. Waugh)  
lynchs@gao.gov (Sarah Lynch - Meeting Notices Only)  
maria.webb@pillsburylaw.com (Maria Webb)  
mark.beaumont@wsms.com (Mark Beaumont)  
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)  
media@nei.org (Scott Peterson)  
mike\_moran@fpl.com (Mike Moran)  
nirsnet@nirs.org (Michael Mariotte)  
patriciaL.campbell@ge.com (Patricia L. Campbell)  
paul@beyondnuclear.org (Paul Gunter)  
paul.gaukler@pillsburylaw.com (Paul Gaukler)  
phinnen@entergy.com (Paul Hinnenkamp)  
pshastings@duke-energy.com (Peter Hastings)  
RJB@NEI.org (Russell Bell)  
RidsNrrPMDPickett  
RidsNrrDorlLp11-1  
RKTemple@cpsenergy.com (R.K. Temple)  
roberta.swain@ge.com (Roberta Swain)  
rod.krich@constellation.com (Mr. Rod Krich)  
ronald.hagen@eia.doe.gov (Ronald Hagen)  
sandra.sloan@areva.com (Sandra Sloan)  
sfrantz@morganlewis.com (Stephen P. Frantz)  
tkkibler@scana.com (Tria Kibler)  
trsmith@winston.com (Tyson Smith)  
waraksre@westinghouse.com (Rosemarie E. Waraks)