



babcock & wilcox nuclear energy

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February 23, 2012

U.S. Nuclear Regulatory Commission (NRC)
ATTN: Document Control Desk
11555 Rockville Pike
Rockville, MD 20852-2738

MPWR-LTR-12-00019

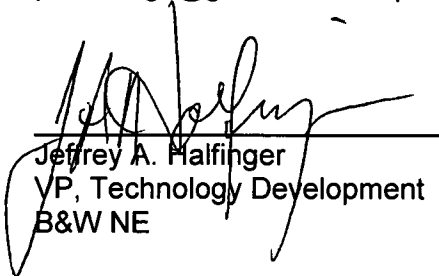
Babcock & Wilcox Nuclear Energy, Inc. (B&W NE)
Docket Number-PROJ0776
Project Number-776

Subject: Correction of Submitted Affidavit

Reference: B&W NE November 22, 2011 Letter to NRC: "Submittal of Slides for Presentation at a Meeting with NRC Staff to Discuss the B&W NE Software Process and Procedures

The above referenced letter provided to the NRC an affidavit to justify the withholding of Confidential Commercial Information that was identified in slides that were a part of the submittal package. That affidavit included some incorrect information. The attached affidavit corrects administrative errors in that original affidavit and is being submitted to supersede the November 22, 2011 affidavit.

Questions concerning this submittal may be directed to Jeff Halfinger at 434-316-7507 (email: jahalfinger@babcock.com) or Peter Hastings at 704-625-4978 (email: pshastings@generationmmpower.com).



Jeffrey A. Halfinger
VP, Technology Development
B&W NE

JAH/msc

Attachments: 1: Affidavit

cc: Joelle L. Starefos, NRC, TWFN 9-F-27
Stewart L. Magruder, Jr., NRC, TWFN 9-F-27

D104
NRD

Attachment 1

AFFIDAVIT OF Jeffrey A. Halfinger

STATE OF Virginia

CITY OF Lynchburg

I, Jeffrey A. Halfinger, being duly sworn, do hereby depose and say:

1. I am a citizen of the United States of America. I am a resident of Lynchburg, Virginia.

My birth date is November 4th, 1961.

2. I am the Vice President for Technology Development, Babcock & Wilcox Nuclear Energy, Inc. (B&W NE), located in Lynchburg, Virginia.

I have held this position since June 1, 2010. I have personal knowledge of the facts set forth in this affidavit, and if called and sworn as a witness in a deposition or before any court, I could and would testify competently under oath to these facts.

3. B&W NE requests that the NRC withhold from public disclosure the information marked as "B&W and Northrop Grumman Corporation Confidential Commercial Information" regarding certain software development procedure information that was submitted to the NRC by the B&W NE letter dated November 22, 2011. This information was included to be presented at the closed meeting with the NRC conducted on January 31, 2011.

4. I have personal knowledge of the criteria and procedures used by B&W NE in designating confidential commercial or financial information as proprietary and have been delegated the function to review the information to identify proprietary information and authorized to apply for its withholding. The need for confidentiality is driven by the following:

a) The information requested to be withheld reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) whose use by any of B&W NE's competitors, without a license from the submitter, would constitute a competitive economic disadvantage to B&W NE.

- b) Use by a competitor of the information requested to be withheld would reduce a competitor's expenditure of resources, or improve its competitive position, in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
- c) The information requested to be withheld reveals aspects of privately funded development plans or programs of commercial value to B&W NE.
- d) The information requested to be withheld consists of patentable ideas.

5. Specifically, the information identified in paragraph 3 above, is classified as proprietary because B&W NE has developed the conceptual and technical approaches regarding details of the B&W mPower Reactor software development process and procedures, disclosure of which could adversely affect B&W NE's competitive position by informing competitors of the degree of maturity and viability of the program, thereby motivating them to increase efforts to develop competing technologies. These efforts supporting portions of the reactor design were privately funded by B&W NE and are of commercial value to B&W NE because of their nature in providing key elements of the B&W mPower™ reactor design process. All or parts of the approach described in the withheld material are patentable.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is a true and correct statement of facts.


Jeffrey A. Halfinger

Subscribed and sworn to before me this 23rd day of February, 2012.


Notary Public

My commission expires: Aug. 31, 2015

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