



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 22, 2019

Ms. Cheryl A. Gayheart
Regulatory Affairs Director
Southern Nuclear Operating Company, Inc.
P. O. Box 1295, Bin 038
Birmingham, AL 35201-1295

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR EDWIN I. HATCH NUCLEAR PLANT, UNIT NOS. 1 AND 2
(EPID L-2018-LLR-0099)

Dear Ms. Gayheart:

By letter dated January 8, 2019 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML19009A112), you submitted additional information supplementing your application dated June 21, 2018 (ADAMS Accession No. ML18172A281), in which Southern Nuclear Operating Company proposed to use Boiling Water Reactor Vessel and Internals Project (BWRVIP) guidelines as an alternative to certain requirements of Section XI of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (B&PV) Code for the inservice inspection (ISI) of reactor pressure vessel internal components at the Edwin I. Hatch Nuclear Plant (HNP), Unit Nos. 1 and 2.

Enclosure 1 to your letter dated January 8, 2019, contains an affidavit dated January 7, 2019, executed by Mr. Neil Wilmshurst of the Electric Power Research Institute, Inc. (EPRI). The affidavit requested that the information contained in the following document (Enclosure 2 to your letter dated January 8, 2019) be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

Southern Nuclear Company, E. I. Hatch Nuclear Plant
Core Shroud Leakage Evaluation of Hatch Nuclear Plant, Unit 1,
Core Shroud Leakage Rate Calculation
Revision 1, dated January 2019

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

Withholding Based Upon Privileged And Confidential Trade Secrets or
Commercial or Financial Information (see e.g. 10 C.F.R. §2.390(a)(4)):

- a. The Proprietary Information is owned by EPRI and has been held in confidence by EPRI. All entities accepting copies of the Proprietary Information do so subject to written agreements imposing an obligation upon the recipient to maintain the confidentiality of the Proprietary Information.

The Proprietary Information is disclosed only to parties who agree, in writing, to preserve the confidentiality thereof.

- b. EPRI considers the Proprietary Information contained therein to constitute trade secrets of EPRI. As such, EPRI holds the information in confidence and disclosure thereof is strictly limited to individuals and entities who have agreed, in writing, to maintain the confidentiality of the Information.
- c. The information sought to be withheld is considered to be proprietary for the following reasons. EPRI made a substantial economic investment to develop the Proprietary Information and, by prohibiting public disclosure, EPRI derives an economic benefit in the form of licensing royalties and other additional fees from the confidential nature of the Proprietary Information. If the Proprietary Information were publicly available to consultants and/or other businesses providing services in the electric and/or nuclear power industry, they would be able to use the Proprietary Information for their own commercial benefit and profit and without expending the substantial economic resources required of EPRI to develop the Proprietary Information.
- d. EPRI's classification of the Proprietary Information as trade secrets is justified by the Uniform Trade Secrets Act which California adopted in 1984 and a version of which has been adopted by over forty states. The California Uniform Trade Secrets Act, California Civil Code §§3426 - 3426.11, defines a "trade secret" as follows:
 - "'Trade secret' means information, including a formula, pattern, compilation, program device, method, technique, or process, that:
 - (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
 - (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."
- e. The Proprietary Information contained therein are not generally known or available to the public. EPRI developed the Information only after making a determination that the Proprietary Information was not available from public sources. EPRI made a substantial investment of both money and employee hours in the development of the Proprietary Information. EPRI was required to devote these resources and effort to derive the Proprietary Information. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the Proprietary Information is highly valuable to EPRI.
- f. A public disclosure of the Proprietary Information would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Proprietary Information both domestically and internationally. The Proprietary Information and Report can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information, and should be withheld from public disclosure.


Therefore, Enclosure 2 of your letter dated January 8, 2019, "Hatch Unit 1 Core Shroud Leakage Calculation (Proprietary)," will be withheld from public disclosure pursuant to 10 CFR 2.390(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 Nuclear Regulatory Commission (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 301-415-4032.

Sincerely,



James R. Hall, Senior Project Manager
Plant Licensing Branch II-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-321 and 50-366

cc: Listserv

Mr. Neil Wilmshurst
Electric Power Research Institute
1330 West W. T. Harris Boulevard
Charlotte, NC 28262-8550

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(EPID L-2018-LLR-0099) DATED JANUARY 22, 2019

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ADAMS Accession No. ML19016A175***via email**

OFFICE	NRR/DORL/LPLII-1/PM	NRR/DORL/LPLII-1/LA	DMLR/MVIB/BC*
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DATE	1/22/19	01/18/19	1/22/19
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NAME	MMarkley	JRHall	
DATE	1/22/19	1/22/19	

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