

THE CINCINNATI GAS & ELECTRIC COMPANY



CINCINNATI, OHIO 45201

September 30, 1983  
LOZ-83-0166

J. WILLIAMS, JR.  
SENIOR VICE PRESIDENT  
NUCLEAR OPERATIONS

Docket No. 50-358

Mr. Harold Denton, Director  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Denton:

RE: WM. H. ZIMMER NUCLEAR POWER STATION - UNIT 1  
SAFETY PARAMETER DISPLAY SYSTEM  
PROPRIETARY MATERIAL REQUEST

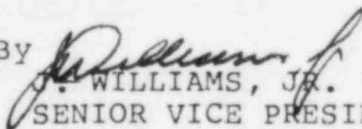
CG&E letter dated September 19, 1983, submitted a response to the requirements for Emergency Response Capability contained in Supplement No. 1 to NUREG-0737. In the response was a report titled "Safety Parameter Display System Implementation Plan." Attachment 1 to the report contained information proprietary to S. Levy, Inc., and therefore was not included with the CG&E September 19, 1983 submittal.

Pursuant to 10 CFR 2.749(b), The Cincinnati Gas & Electric Company, on behalf of S. Levy, Inc., hereby makes application for the withholding from public disclosure of the document entitled "Safety Parameter Display System for Zimmer Nuclear Power Station Number 1" (003-1R-001), Revision 1, February 1983. In support of such application, CG&E incorporates by reference herein the attached affidavit of John E. Hench, Vice President of Levy Systems, Division of S. Levy Incorporated.

Very truly yours,

THE CINCINNATI GAS & ELECTRIC COMPANY

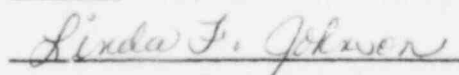
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BY   
J. WILLIAMS, JR.  
SENIOR VICE PRESIDENT

State of Ohio )  
County of Clermont)

Sworn to and subscribed before me this 30<sup>th</sup> day of September, 1983.

*Per Am:*  
*2222 1/15*  
*See Attached*

  
My commission expires 8-16-88.  
Notary Public

Mr. Harold Denton  
Director  
September 30, 1983  
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cc: WITHOUT PROPRIETARY ENCLOSURE:

John H. Frye III  
M. Stanley Livingston  
Frank F. Hooper  
Troy B. Conner, Jr.  
John E. Dolan  
James P. Fenstermaker  
Steven G. Smith  
William J. Moran  
Stephen F. Koziar, Jr.  
Samuel H. Porter  
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Deborah F. Webb  
David K. Martin  
George E. Pattison  
Andrew B. Dennison  
L.L. Kintner  
J.G. Keppler

Levy Systems, Division of S. Levy, Inc.  
1999 South Bascom Ave.  
Campbell, CA. 95008

Attn: J.E. Hench  
T. Fukushima

S. LEVY INCORPORATED

AFFIDAVIT

I, John E. Hench, being duly sworn, depose and state as follows:

1. I am Vice President of Levy Systems Division of S. Levy Inc., and have been delegated the function of reviewing the information described in paragraph 2 which is sought to be withheld and have been authorized to apply for its withholding.
2. The information sought to be withheld is the document entitled "Safety Parameter Display System for Zimmer Nuclear Power Station Number I"(003-1R-001), Revision 1, February 1983.
3. In designating material as proprietary, S. Levy Inc. utilizes the definition of proprietary information and trade secrets set forth in the American Law Institute's Restatement of Torts, Section 757. This definition provides:

"A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.... A substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring information.... Some factors to be considered in determining whether given information is one's trade secret are: (1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others."

4. Some examples of categories of information which fit into the definition of proprietary information are:
  - a. Information that discloses a process, method or apparatus where prevention of its use by S. Levy Inc.'s competitors without license from S. Levy Inc. constitutes a competitive economic advantage over other companies;

- b. Information consisting of supporting data and analyses, relative to a process, method or apparatus, the application of which provide a competitive economic advantage, e.g., by optimization or improved marketability;
  - c. 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;
  - d. Information which reveals cost or price information, production capacities, budget levels or commercial strategies of S. Levy Inc., its customers or suppliers;
  - e. Information which reveals aspects of past, present or future S. Levy Inc. customer-funded development plans and programs of potential commercial value to S. Levy Inc.;
  - f. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection;
  - g. Information which S. Levy Inc. must treat as proprietary according to agreements with other parties.
5. In addition to proprietary treatment given to material meeting the standards enumerated above, S. Levy Inc. customarily maintains in confidence preliminary and draft material which has not been subject to complete proprietary, technical and editorial review. This practice is based on the fact that draft documents often do not appropriately reflect all aspects of a problem, may contain tentative conclusions and may contain errors that can be corrected during normal review and approval procedures. Also, until the final document is completed it may not be possible to make any definitive determination as to its proprietary nature. S. Levy Inc. is not generally willing to release such a document to the general public in such a preliminary form. Such documents may be on occasion furnished to the NRC staff on a confidential basis because it is our belief that is in the public interest for the staff to be promptly furnished with significant or potentially significant information. Furnishing the document on a confidential basis pending completion of our internal review permits early acquaintance of the staff with the information while protecting our potential proprietary position and permitting us to insure the public documents are technically accurate and correct.
6. Approval of proprietary treatment of a document is made by the Vice President of the originating component, the person most

likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within the Company is limited on a "need to know" basis and such documents at all times are clearly identified as proprietary.

7. The procedure for approval of external release of such a document is also reviewed by the Vice President of the originating component and by our Legal counsel and the President for technical content, competitive effect and determination of the accuracy of the proprietary designation in accordance with the standards enumerated above. Disclosures outside S. Levy Inc. are generally limited to regulatory bodies, customers and potential customers and their agents, suppliers and licensees only in accordance with appropriate regulatory provisions or proprietary agreements.
8. The document mentioned in paragraph 2 above has been evaluated in accordance with the above criteria and procedures and has been found to contain information which is proprietary and which is customarily held in confidence by S. Levy Inc.
9. The information mentioned in Paragraph 2 above has been classified as proprietary because it contains details concerning Levy Systems Division's signal processing algorithms which were developed at considerable expense to S. Levy Inc. and which are not available to other parties. The information is of a type customarily held in confidence by S. Levy Inc. since it reveals important project features and contains valuable design information which were obtained at considerable expense to S. Levy Inc.
10. The information, to the best of my knowledge and belief, has consistently been held in confidence by S. Levy Inc., no public disclosure has been made, and it is not available in public sources. All disclosure to third parties have been made pursuant to regulatory provisions for proprietary agreements which provide for maintenance of the information in confidence.
11. Public disclosure of the information sought to be withheld is likely to cause substantial harm to competitive position of S. Levy Inc. and deprive or reduce the availability of profit making opportunities because:
  - a. Development of the information in the report costs more than \$100,000.
  - b. The information is a part of S. Levy Inc. technological base which is sold in the form of license agreements. The pre-

cise value of these analyses is difficult to identify relative to the total value of the licensee agreement, but it is clearly substantial. The value to S. Levy Inc. would be lost if this information were disclosed to the public.

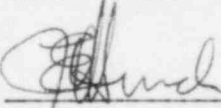
- c. Competitors in the field market lack the methods capability and experience which S. Levy Inc. has developed. Knowing the design information in this report will allow them to reduce uncertainty factors included in their bids. This would cause S. Levy Inc. to lose its current competitive advantage.
- d. Research, development, engineering, analytical and other costs and expenses must be included in our SPDS price. The ability of S. Levy Inc. competitors to utilize such information without similar expenditure or resources would enable them to sell fuel at prices not reflecting similar expenditures.

STATE OF CALIFORNIA        )  
COUNTY OF SANTA CLARA    )ss:

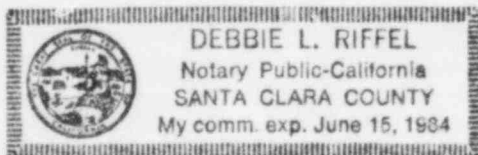
John E. Hench, being duly sworn, deposes and says:

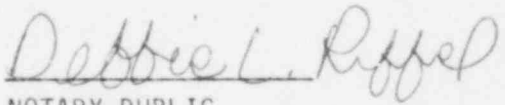
That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

Executed at Campbell, California, this 19 of September 1983.

  
\_\_\_\_\_  
John E. Hench  
S. Levy Incorporated

Subscribed and sworn before me this 19 of September 1983.



  
\_\_\_\_\_  
NOTARY PUBLIC  
STATE OF CALIFORNIA