



Northern States Power Company

Monticello Nuclear Generating Plant  
2807 West Hwy 75  
Monticello, Minnesota 55362-9637

May 1, 1996

U S Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, DC 20555

MONTICELLO NUCLEAR GENERATING PLANT  
Docket No. 50-263 License No. DPR-22

Submittal of Information for the Cycle 18 Lead Use Assemblies

In order to encourage the use of lead test/use fuel assemblies, an agreement was established between the NRC and GE where information on the use of such assemblies would be provided to the NRC. The purpose of this letter is to submit the following information with respect to the four GE12 Lead Use Assemblies (LUAs) that are included in the Monticello Cycle 18 (Reload 17) core:

GE proprietary report entitled "GE12 LUA Fuel Bundle Description Report for Northern States Power Company Monticello Nuclear Generating Plant"

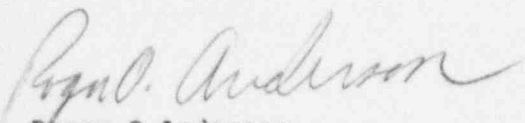
NSP proprietary report NSPNAD-96001 Rev 0, dated April 1996 and entitled "Monticello Cycle 18 Final Reload Design Report (Reload Safety Evaluation)"

Please note that the information contained in these reports has been handled and classified as proprietary by General Electric Company and Northern States Power Company as indicated by the respective affidavits. It is hereby requested that the above reports be withheld from public disclosure in accordance with the provisions of 10 CFR 2.790.

The scheduled start up date for Cycle 18 is May 18, 1996.

Please contact Mel Opstad at 612-295-1653 if you have any questions related to this submittal.

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Roger O Anderson  
Director  
Licensing and Management Issues

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Attachments:

1. GE Affidavit for GE12 LUA Fuel Bundle Description Report for Northern States Power Company Monticello Nuclear Generating Plant
2. NSP Affidavit for Monticello Cycle 18 Final Reload Design Report (Reload Safety Evaluation)
3. GE proprietary report entitled "GE12 LUA Fuel Bundle Description Report for Northern States Power Company Monticello Nuclear Generating Plant"
4. NSP proprietary report NSPNAD-96001 Rev 0, dated April 1996 and entitled "Monticello Cycle 18 Final Reload Design Report (Reload Safety Evaluation)"

c: Regional Administrator-III, NRC  
NRR Project Mgr, NRC (2 copies)  
NRC Resident Inspector  
State of Minnesota  
Attn: Kris Sanda (w/o attachments)  
J E Silberg (w/o attachments)  
C J Papandrea (w/o attachments)

## General Electric Company

### AFFIDAVIT

I, **James F. Klapproth**, being duly sworn, depose and state as follows:

- (1) I am Manager, Product Definition, General Electric Company ("GE") 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 contained in the document, *GE12 LUA Fuel Bundle Description Report for Northern States Power Company Monticello Nuclear Generating Plant*.
- (3) In making this application for withholding of proprietary information of which it is the owner, GE relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), 2.790(a)(4), and 2.790(d)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions also qualify under the narrower definition of "trade secret", within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
- (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, including supporting data and analyses, where prevention of its use by General Electric's competitors without license from General Electric constitutes a competitive economic advantage over other companies;
  - b. 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;

- c. Information which reveals cost or price information, production capacities, budget levels, or commercial strategies of General Electric, its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future General Electric customer-funded development plans and programs, of potential commercial value to General Electric;
- e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in both paragraphs 4.a and 4.b above.

- (5) The information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GE, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GE, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.
- (6) Initial approval of proprietary treatment of a document is made by the manager 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 GE is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the cognizant marketing function (or his delegate), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GE are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.
- (8) The information identified in paragraph (2), above, is classified as proprietary because it would provide other parties, including competitors, with information related to General Electric fuel designs, analysis results and potential commercial offerings which were developed at a considerable expense to General Electric.
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GE's competitive position and foreclose or reduce the availability of profit-making

opportunities. The information is part of GE's comprehensive BWR technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process.

The research, development, engineering, and analytical costs comprise a substantial investment of time and money by GE.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

GE's competitive advantage will be lost if its competitors are able to use the results of the GE experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

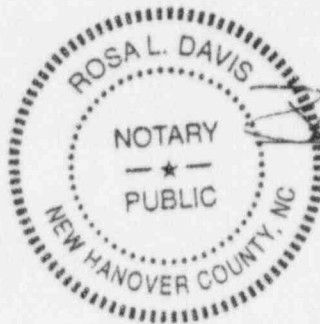
The value of this information to GE would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive GE of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable analytical tools.

STATE OF NORTH CAROLINA   )  
  )  
COUNTY OF NEW HANOVER   )    ss:

James F. Klapproth, 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 Wilmington, North Carolina, this 26<sup>th</sup> day of January 1996.



James F. Klapproth  
James F. Klapproth  
General Electric Company

Subscribed and sworn before me this 26<sup>th</sup> day of JANUARY 1996.

Rosal L. Davis  
Notary Public, State of North Carolina  
my commission  
expired 12-15-97



## UNITED STATES NUCLEAR REGULATORY COMMISSION

NORTHERN STATES POWER COMPANY

MONTICELLO NUCLEAR GENERATING PLANT

DOCKET NO. 50-263

## Request to Withhold Proprietary Information from Public Disclosure

Northern States Power Company, a Minnesota corporation, hereby requests that a report provided to the NRC as an attachment to the letter titled "Submittal of Information for the Cycle 18 Lead Use Assemblies" dated May 1, 1996, be withheld from public disclosure due to its proprietary nature. The details of this request are provided in the following affidavit:

## AFFIDAVIT

I, Roger O. Anderson, being duly sworn, depose and state as follows:

- (1) I am Director, Licensing and Management Issues, Northern States Power Company ("NSP") 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 consists of a design report (NSPNAD-96001 Rev 0, dated April 1996 and entitled "Monticello Cycle 18 Final Reload Design Report") that has been provided to the NRC as an attachment to the letter titled "Submittal of Information for the Cycle 18 Lead Use Assemblies" dated May 1, 1996. The report has the words "NSP Proprietary Information" on each page.
- (3) In making this application for withholding of proprietary information of which it is the owner, NSP relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10CFR9.17(a)(4), and 2.790(d)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions also qualify under the narrower definition of "trade secret", within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission 975F2d871 (DC Cir. 1992), Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
- (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, including supporting data and analyses, where prevention of its use by NSP's competitors without license from NSP constitutes a competitive economic advantage over other companies;
  - b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, installation, assurance of quality, or licensing of a similar product;
  - c. Information which reveals aspects of past, present, or future NSP funded development plans and programs of potential commercial value to NSP;

- d. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b. above.

- (5) The information sought to be withheld was submitted to NRC in confidence. The information is of a sort customarily held in confidence by NSP, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by NSP, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence.
- (6) Public disclosure of the information sought to be withheld is likely to cause harm to NSP's competitive position and foreclose or reduce the availability of profit-making opportunities. The research, development, engineering, and analytical costs comprise a substantial investment of time and money by NSP. The value of this information to NSP would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive NSP of the opportunity to exercise its competitive advantage to seek an adequate return on its investment in developing this design information.

This letter contains no restricted or other defense information.

NORTHERN STATES POWER COMPANY

By

Roger O Anderson  
Roger O Anderson

Director

Licensing & Management Issues

On this 1<sup>st</sup> day of May before me a notary public in and for said County, personally appeared Roger O Anderson, Director, Licensing and Management Issues, and being first duly sworn acknowledged that he is authorized to execute this document on behalf of Northern States Power Company, that he knows the contents thereof, and that to the best of his knowledge, information, and belief the statements made in it are true and that it is not interposed for delay.

Cynthia L. Yaeger

