

ATTACHMENT 5

Electric Power Research Institute (EPRI) Affidavit



STEVE SWILLEY

Vice President and Deputy
Chief Nuclear Officer

Ref. EPRI Docket No. 99902016

October 18, 2022

Document Control Desk
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Request for Withholding of the following Proprietary Information Included in:

LaSalle County Station, Units 1 and 2
Renewed Facility Operating License Nos. NPF-11 and NPF-18
NRC Docket Nos. 50-373 and 50-374
License Amendment Request – Relocation of Pressure and Temperature Limit Curves
to the Pressure and Temperature Limits Report

To Whom It May Concern:

This is a request under 10 C.F.R. §2.390(a)(4) that the U.S. Nuclear Regulatory Commission ("NRC") withhold from public disclosure the information identified in the enclosed Affidavit consisting of the proprietary information owned by Electric Power Research Institute, Inc. ("EPRI") identified above in the attached report. Proprietary and non-proprietary versions of the Report and the Affidavit in support of this request are enclosed.

EPRI desires to disclose the Proprietary Information in confidence to assist the NRC review of the enclosed submittal to the NRC by Constellation. The Proprietary Information is not to be divulged to anyone outside of the NRC or to any of its contractors, nor shall any copies be made of the Proprietary Information provided herein. EPRI welcomes any discussions and/or questions relating to the information enclosed. In case the NRC rejects this affidavit for protection for any reason, EPRI requests that the NRC contact the EPRI project manager and EPRI Order Center (vvaughn@epri.com) with an offer of an opportunity for EPRI to withdraw this submittal.

If you have any questions about the legal aspects of this request for withholding, please do not hesitate to contact me. Questions on the content of the Report should be directed to Nathan Palm of EPRI at (724) 288-4043.

Sincerely,

A handwritten signature in black ink, appearing to read "A. S.", likely representing Steve Swilley.

Attachment(s)

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AFFIDAVIT

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I, Steve Swilley, being duly sworn, depose and state as follows:

I am the Vice President and Deputy Chief Nuclear Officer at Electric Power Research Institute, Inc., whose principal office is located at 3420 Hillview Avenue, Palo Alto, California ("EPRI"), and I have been specifically delegated responsibility for the above-listed Report which contains EPRI Proprietary Information that is sought under this Affidavit to be withheld "Proprietary Information". I am authorized to apply to the U.S. Nuclear Regulatory Commission ("NRC") for the withholding of the Proprietary Information on behalf of EPRI.

EPRI Proprietary Information is identified in the above referenced report with text inside double brackets. Examples of such identification is as follows:

[[This sentence is an example^(E)]]

Tables containing EPRI Proprietary Information are identified with double brackets before and after the object. In each case the superscript notation ^(E) refers to this affidavit and all the bases included below, which provide the reasons for the proprietary determination.

EPRI requests that the Proprietary Information be withheld from the public on the following bases:

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. 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 substantial economic resources required of EPRI to develop the Proprietary Information.

c. 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."

d. 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.

e. 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.

I have read the foregoing, and the matters stated herein are true and correct to the best of my knowledge, information, and belief. I make this affidavit under penalty of perjury under the laws of the United States of America and the laws of the State of North Carolina.

Executed at 1300 W WT Harris Blvd, Charlotte, NC being the premises and place of business of Electric Power Research Institute, Inc.

Date: 10/25/22

Steve Swilley
Steve Swilley

(State of North Carolina)
(County of Mecklenburg)

Subscribed and sworn to (or affirmed) before me on this 25 day of October, 2022 by
Gene Smith, proved to me on the basis of satisfactory evidence to be the
person who appeared before me.

Signature

My Commission Expires 12 day of August, 2023

