



Northern States Power Company

Monticello Nuclear Generating Plant  
2807 West County Road 75  
Monticello, MN 55362

January 26, 2000

10 CFR Part 50  
Section 50.90

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

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

**Affidavit for**  
**License Amendment Request for Monticello Cycle 20**  
**Safety Limit Minimum Critical Power Ratio (TAC No. MA7355)**

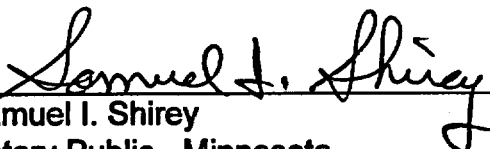
Ref. 1 Letter from Byron D. Day, NSP, to US Nuclear Regulatory Commission, "License Amendment Request for Monticello Cycle 20 Safety Limit Minimum Critical Power Ratio," December 16, 1999.

On December 16, 1999, NSP submitted a request for a change in the Technical Specifications, Appendix A of the Operating License for the Monticello Nuclear Generating Plant (Reference 1). Exhibit E of the December 16, 1999 submittal was a proprietary General Electric document sent without an affidavit. Attached here is the required affidavit requesting Exhibit E be withheld from public disclosure as provided by 10CFR2.790(a)(4).

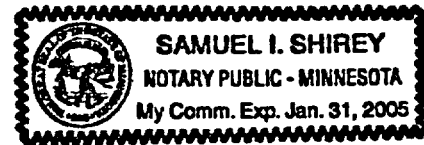
This submittal does not contain any new NRC commitments and does not modify any prior commitments. Please contact Sam Shirey, Sr. Licensing Engineer, at (612) 295-1449 if you require further additional information related to this request.

by Byron D. Day  
Byron D. Day  
Plant Manager  
Monticello Nuclear Generating Plant

On this 26<sup>th</sup> day of January 2000 before me a notary public in and for said County, personally appeared Byron D. Day, Plant Manager, Monticello Nuclear Generating Plant, 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.

  
\_\_\_\_\_  
Samuel I. Shirey  
Notary Public - Minnesota  
Sherburne County  
My Commission Expires January 31, 2005

C: Regional Administrator-III, NRC  
NRR Project Manager, NRC  
Resident Inspector, NRC  
State of Minnesota  
Attn: Steve Minn



Attachments:  
Exhibit A - Affidavit



**Affidavit**

**I, Glen A. Watford, being duly sworn, depose and state as follows:**

- (1) I am Manager, Nuclear Fuel Engineering, Global Nuclear Fuel – Americas, L. L. C., (“GNF-A”) 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 letter T. G. Orr (GE) to T. J. Asmus (NSP), *ECCS-LOCA Evaluation for Monticello Cycle 20*, TGR:99-066, October 4, 1999.
- (3) In making this application for withholding of proprietary information of which it is the owner, General Electric (“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) and 2.790(a)(4) 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. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in (6) and (7) following. 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.
- (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) is classified as proprietary because it contains details of GE's fuel design and licensing methodology.

The development of the methods used in these analyses, along with the testing, development and approval of the supporting methodology was achieved at a significant cost, on the order of several million dollars, to GE.

- (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 fuel design and licensing methodology is part of GE's comprehensive BWR safety and 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. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical, and NRC review 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.

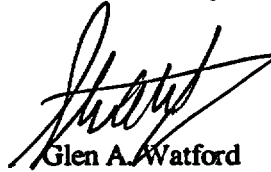
Affidavit

State of North Carolina )  
County of New Hanover ) SS:

Glen A. Watford, being duly sworn, deposes and says:

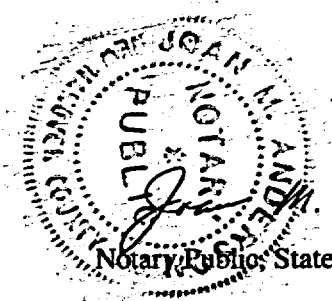
That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

Executed at Wilmington, North Carolina, this 21<sup>st</sup> day of January, 2000



Glen A. Watford  
Global Nuclear Fuel - Americas, LLC

Subscribed and sworn before me this 21<sup>st</sup> day of January, 2000



Notary Public, State of North Carolina

My Commission Expires 10/08/2001