



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

May 3, 2000

Mr. Ian C. Rickard
Director, Nuclear Licensing
ABB Combustion Engineering Nuclear Power
P.O. Box 500
2000 Day Hill Road
Windsor, CT 06095-0500

**SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE -
ABB COMBUSTION ENGINEERING NUCLEAR POWER, INC.**

Dear Mr. Rickard:

By your application and affidavit dated April 15, 1999, you submitted CENPD-390-P, "The Advanced PHOENIX and POLCA Codes for Nuclear Design of Boiling Water Reactors," and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790. A nonproprietary version was submitted on January 18, 2000, for placement in the NRC public document room.

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

- a. A similar product is manufactured and sold by major pressurized water reactor competitors of Combustion Engineering.
- b. Development of this information by Combustion Engineering required millions of dollars and thousands of manhours of effort. A competitor would have to undergo similar expense in generating equivalent information.
- c. In order to acquire such information, a competitor would also require considerable time and inconvenience to develop nuclear design computer code methods descriptions and code benchmark results against experimental and plant data.
- d. The information consists of nuclear design computer code methods descriptions and code benchmark results against experimental and plant data, the application of which provides a competitive economic advantage. The availability of such information to competitors would enable them to modify their product to better compete with Combustion Engineering, take marketing or other actions to improve their product's position or impair the position of Combustion Engineering's product, and avoid developing similar data and analyses in support of their processes, methods or apparatus.

- e. In pricing Combustion Engineering's products and services, significant research, development, engineering, analytical, manufacturing, licensing, quality assurance and other costs and expenses must be included. The ability of Combustion Engineering's competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.
- f. Use of the information by competitors in the international marketplace would increase their ability to market nuclear steam supply systems by reducing the costs associated with their technology development. In addition, disclosure would have an adverse economic impact on Combustion Engineering's potential for obtaining or maintaining foreign licensees.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of "The Advanced PHOENIX and POLCA Codes for Nuclear Design of Boiling Water Reactors," marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(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 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) 415-1424.

Sincerely,

/RA/

Jack Cushing, Project Manager, Section 2
Project Directorate IV & Decommissioning
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Project No. 692

cc: See next page

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