

April 27, 2001

Mr. Robert E. Denton
President and Chief Executive Officer
Constellation Nuclear, LLC
P.O. Box 1475
Baltimore, MD 21203-1475

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE, NINE MILE POINT NUCLEAR STATION, UNIT NOS. 1 AND 2
(TAC NOS. MB0878 AND MB0879)

Dear Mr. Denton:

By your letter dated February 1, 2001, and affidavit dated January 30, 2001, you submitted an "Application for Order and Conforming Administrative Amendments for License Transfers (NRC Facility Operating License Nos. DPR-63 and NPF-69)" for Nine Mile Point Nuclear Station, Unit Nos. 1 and 2. By my letter dated February 16, 2001, we addressed the proprietary status of Exhibits 7A, 10A, 11A, 13A and 15A and agreed to withhold them from public disclosure pursuant to 10 CFR 9.17(a)(4) and 10 CFR 2.790. However, my February 16, 2001, letter inadvertently missed discussing Attachment 1 of your February 1, 2001, submittal; thus this current letter specifically addresses Attachment 1.

By a letter dated April 5, 2001, you revised page 23 of Attachment 1 of your February 1, 2001, application. The revision did not change the content of the subject page, but proposed to change a piece of information from proprietary to non-proprietary. Your April 5, 2001, submittal provided a revised proprietary and a revised non-proprietary page 23.

Your affidavits stated that Attachment 1 and the above-listed Exhibits should be considered exempt from mandatory public disclosure for the following reasons:

- (i) This information is of a type that is held in confidence by Constellation Energy Group, Inc. and Constellation Nuclear, LLC and there is a rational basis for doing so because the information contains sensitive financial information concerning the projected revenues and operating expenses of Constellation Energy Group, Inc., Constellation Nuclear, LLC and other affiliated entities.
- (ii) This information is being and has been held in confidence by Constellation Energy Group, Inc. and Constellation Nuclear, LLC.
- (iii) This information is being transmitted to the Nuclear Regulatory Commission in confidence.
- (iv) This information is not available in public sources and could not be gathered readily from other publicly available information.

- (v) Public disclosure of this information would create substantial harm to the competitive position of Constellation Energy Group, Inc., Constellation Nuclear, LLC and other affiliated entities by disclosing internal financial projections for these entities and confidential financial and corporate information to other parties whose commercial interests may be adverse to those of Constellation Energy Group, Inc., Constellation Nuclear, LLC and other affiliated entities.

We have reviewed Attachment 1 in accordance with the requirements of 10 CFR 9.17(a)(4) and 10 CFR 2.790 and, on the basis of your statements, have determined that Attachment 1 of your February 1, 2001, letter, as revised by your April 5, 2001, letter you sought to withhold contains proprietary commercial information and should be withheld from public disclosure.

Therefore, Attachment 1 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 301-415-1451.

Sincerely,

/RA/

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-220 and 50-410

cc: See next page

- (v) Public disclosure of this information would create substantial harm to the competitive position of Constellation Energy Group, Inc., Constellation Nuclear, LLC and other affiliated entities by disclosing internal financial projections for these entities and confidential financial and corporate information to other parties whose commercial interests may be adverse to those of Constellation Energy Group, Inc., Constellation Nuclear, LLC and other affiliated entities.

We have reviewed Attachment 1 in accordance with the requirements of 10 CFR 9.17(a)(4) and 10 CFR 2.790 and, on the basis of your statements, have determined that Attachment 1 of your February 1, 2001, letter, as revised by your April 5, 2001, letter you sought to withhold contains proprietary commercial information and should be withheld from public disclosure.

Therefore, Attachment 1 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 301-415-1451.

Sincerely,
/RA/

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-220 and 50-410

cc: See next page

DISTRIBUTION:

PUBLIC

PDI-1 Reading File

P. Tam

S. Little

PDI-1 Acting Section Chief

M.P. Siemien, OGC

B. Platchek, RGI

Accession Number: **ML011030104**

OFFICE	PDI-1\PM	PDI-1\LA	OGC	PDI-1\SC
NAME	PTam	SLittle	MSiemien	MBanerjee
DATE	4/24/01	4/19/01	4/25/01	4/26/01

OFFICIAL RECORD COPY

Nine Mile Point Nuclear Station
Unit Nos. 1 and 2

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Resident Inspector
U.S. Nuclear Regulatory Commission
P.O. Box 126
Lycoming, NY 13093

Mr. Jim Rettberg
New York State Electric & Gas
Corporation
Corporate Drive
Kirkwood Industrial Park
P.O. Box 5224
Binghamton, NY 13902-5224

Supervisor
Town of Scriba
Route 8, Box 382
Oswego, NY 13126

Mr. John V. Vinqvist, MATS Inc.
P.O. Box 63
Lycoming, NY 13093

Jay E. Silberg, Esquire
Shaw Pittman
2300 N Street, N.W.
Washington D.C. 20037

Daniel F. Stenger, Esquire
Foley & Lardner
888 16th St., NW
Washington, D.C. 20006

Mary A. Murphy, Esquire
LeBoeuf, Lamb, Greene and MacRae, LLP
1875 Connecticut Ave.
Suite 1200
Washington, D.C. 20009

Mr. John H. Mueller
Chief Nuclear Officer
Niagara Mohawk Power Corporation
Nine Mile Point Nuclear Station
Operations Building, Second Floor
Lycoming, NY 13093

Charles Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, NY 10271

Mr. Paul D. Eddy
Electric Division
NYS Department of Public Service
Agency Building 3
Empire State Plaza
Albany, NY 12223

Mr. Timothy S. Carey
Chair and Executive Director
State Consumer Protection Board
5 Empire State Plaza, Suite 2101
Albany, NY 12223

Mark J. Wetterhahn, Esquire
Winston & Strawn
1400 L Street, NW
Washington, DC 20005-3502

Gary D. Wilson, Esquire
Niagara Mohawk Power Corporation
300 Erie Boulevard West
Syracuse, NY 13202

Mr. F. William Flynn, President
New York State Energy, Research,
and Development Authority
Corporate Plaza West
286 Washington Avenue Extension
Albany, NY 12203-6399

Robert J. Glasser and Bo Hong, Esquires
Gould & Wilkie, LLP
One Chase Manhattan Plaza
58th Floor
New York, NY 10005

