

May 9, 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 letters dated February 16 and April 27, 2001, we addressed the proprietary status of that application.

By your letter and affidavit both dated April 27, 2001, you supplemented your February 1, 2001, application. Your April 27, 2001, letter provided a one-page attachment containing capacity factors used in calculating future revenues from Nine Mile Point Nuclear Station, Unit Nos. 1 and 2. You stated that the attachment contains proprietary information.

Your April 27, 2001, letter references your February 1, 2001, application and affidavit which states that information 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 the attachment to your April 27, 2001, letter in accordance with the requirements of 10 CFR 9.17(a)(4) and 10 CFR 2.790 and, on the basis of your statements, and have determined that the attachment which you sought to withhold contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the subject page 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.

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

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Unit Nos. 1 and 2

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