

February 4, 2004

Mr. Warren J. Bilanin, Director
Nuclear Power Sector
Electric Power Research Institute
3412 Hillview Avenue
Palo Alto, CA 94304-1395

SUBJECT: ELECTRIC POWER RESEARCH INSTITUTE – REQUEST FOR
WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR EPRI
(TAC NO. M95869)

Dear Mr. Bilanin:

By letter dated September 11, 2003, the Electric Power Research Institute (EPRI) submitted an affidavit dated September 11, 2003, executed by you, requesting that information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790:

"Steam Generator In Situ Pressure Test Guidelines, Revision 2"

EPRI submitted the document to the NRC as a means of exchanging information in support of generic regulatory improvements relating to NEI 97-06, "Steam Generator Program Guidelines."

A nonproprietary copy of this document was not provided for placement in the Nuclear Regulatory Commission's (NRC's) Public Document Room or for addition to the Agencywide Documents Access and Management System Public Electronic Reading Room.

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

- (i) The Report has been held in confidence by EPRI, its owner.
- (ii) The Report is a type customarily held in confidence by EPRI and there is a rational basis therefore.
 - (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.
- (iii) The Report will be transmitted to the NRC in confidence.

- (iv) The Report is not available in public sources. EPRI developed the Report only after making a determination that the Report was not available from public sources. It required a large expenditure of dollars for EPRI to develop the Report. In addition, EPRI was required to use a large amount of time of EPRI employees. The money spent, plus the value of EPRI's staff time in preparing the Report, show that the Report is highly valuable to EPRI. Finally, the Report was developed only after a long period of effort of at least several months.
- (v) A public disclosure of the Report would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Report both domestically and internationally. The Report can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

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, information contained in the document entitled "Steam Generator In Situ Pressure Test Guidelines, Revision 2," 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 301-415-3764.

Sincerely,

/RA/

Brian J. Benney, Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Project No. 669

cc: See next page

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*See previous concurrence

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cc:

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