

RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) / PRIVACY
ACT (PA) REQUEST

2005-0049

1

RESPONSE
TYPE ☒ FINAL ☐ PARTIAL

REQUESTER

Nicholas W. Mattia, Jr.

DATE

FEB 08 2005

PART I. - INFORMATION RELEASED

- ☐ No additional agency records subject to the request have been located.
- ☐ Requested records are available through another public distribution program. See Comments section.
- ☒ APPENDICES
A, B Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- ☒ APPENDICES
C Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- ☐ Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- ☒ APPENDICES
A,B,C Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☐ See Comments.

PART I.A - FEES

AMOUNT *

\$ 181.01

* See comments
for details

- ☒ You will be billed by NRC for the amount listed. ☐ None. Minimum fee threshold not met.
- ☐ You will receive a refund for the amount listed. ☐ Fees waived.

PART I.B - INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ No agency records subject to the request have been located.
- ☒ Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- ☒ This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

Breakdown of processing fees:

\$ 88.54 [Search: 2 hrs. professional @\$44.27/hr.]
44.27 [Review: 1 hr. professional @\$44.27/hr.]
48.20 [Duplication: 241 pages @\$0.20/pg.]
\$181.01 TOTAL

The publicly available records identified at Appendix A-2 and A-3 are non-proprietary versions of the records. An additional search was conducted but staff was not able to locate non-redacted versions of either of these records.

The incoming FOIA/PA-2005-0049 request is located in ADAMS at ML043270554.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

(6-1998)

**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

2005-0049 Resp #1

FEB 08 2005

**APPENDICES
B, C****PART II.A – APPLICABLE EXEMPTIONS**

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- ☐ Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
- ☐ Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
- ☐ Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
- ☐ 41 U.S.C., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- ☒ Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
- ☒ The information is considered to be confidential business (proprietary) information.
- ☐ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.790(d)(1).
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- ☐ Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
- ☐ Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
- ☐ Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
- ☐ Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- ☐ Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☐ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
- ☐ (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
- ☐ (C) Disclosure would constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
- ☐ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
- ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- ☐ OTHER (Specify)

PART II.B – DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
James E. Dyer	Director, Office of Nuclear Reactor Regulation	Appendix B: 1-2; C-1	✓		

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX A
RECORDS ALREADY AVAILABLE IN THE PDR**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NO.</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	01/22/99	9901270047	Ltr NRC to Boston Edison Co. Re: Forwards request for addl info re transfer ...(5 Pages)
2.	01/28/99	9902080191	Ltr Boston Edison Co. to NRC, Re: Forwards response to NRC 990122 RAI re financial...(19 Pages) [Redacted Version]
3.	04/15/99	9904210046	Ltr Boston Edison Co. to NRC, Re: Provides attachments A & B in support of request for transfer of plant from BECO to Entergy ... (31 Pages) [Redacted Version]
4.	10/07/99	9910140100	Ltr NRC to PSE&G, Re: Forwards RAI re licensee 990604 request for NRC consent to transfer PSE&G ownership & licensed operating authorities in Hope Creek & Salem...(6 Pages)
5.	10/22/99	ML993080191	Ltr PSE&G to NRC, Re: PSE&G Proposed License Transfer and Conforming License Amendments Supporting... Response to Request for Additional Information (25 Pages)
6.	03/09/00	ML003690323	Ltr NRC to PECO, Re: Request for Additional Information - Limerick, Peach Bottom, and Salem (3 Pages)
7.	03/23/00	ML003700734	Ltr PECO to NRC, Re: Response to Request for Additional Information Regarding Application for License Transfers... (9 Pages)
8.	03/01/01	ML010160298	Ltr NRC to Entergy Nuclear IP2, Re: Request for Additional Information Regarding License Transfer Application...Indian Point (6 Pages)
9.	04/12/01	ML011070568	Ltr Consolidated Edison Co. of New York, Inc to NRC, Re: Indian Point, Units 1 and 2- Response to Request for Additional Information...(19 Pages)
10.	05/04/01	ML011020287	Ltr NRC to Entergy Nuclear, Re: Indian Point 2 Supplement to Request for Additional Information...(7 Pages)

11.	06/05/01	ML011560677	Ltr NRC to ENO, Re: Indian Point Nuclear Generating Unit Nos. 1 & 2 - Transfer of facility operating license (4 Pages)
12.	06/06/01	ML011630098	Ltr Entergy Nuclear IP2 to NRC, Re: Indian Point Units 1 and 2 Response to Supplement to Request for Additional Information... (6 Pages)
13.	06/18/02	ML021650091	Memo R. Starkey, NRR, to J. Clifford, NRR, Re: Request for Additional Information Concerning Application for Order and Conforming Amendments for License Transfer.. (3 Pages)
14.	06/28/02	ML021840117	Ltr North Atlantic Energy Service Corp. to NRC, Re: Seabrook Response to NRC Request for Additional Information Regarding the Application for Order and Conforming Amendments for License Transfer.. (8 Pages)
15.	07/01/02	ML021840417	Ltr North Atlantic Energy Service Corp. to NRC, Re: Seabrook Response to NRC Request for Additional Information ...(14 Pages)
16.	07/09/02	ML021800004	Memo R. Starkey to J. Zimmerman, Re: Request for Additional Information ...Amendments for License Transfer.. (3 Pages)

**APPENDIX B
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NO.</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	05/24/01	ML011510377	Ltr Entergy Nuclear Operations, Inc, to NRC, Re: Response to Supplement to Request for Additional Information Regarding License Transfer... Attachment 2 Proprietary (49 Pages) [NRC's 06/26/01 proprietary determination letter attached] Exemption 4
2.	06/08/01	ML011630057	Ltr Entergy Nuclear Operations, Inc, to NRC, Re: Revised Response to Supplement to Request for Additional Information Regarding License Transfer... Attachment 2 Proprietary (62 Pages) [NRC's 06/26/01 proprietary determination letter attached) Exemption 4

**APPENDIX C
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	04/16/01	Ltr Entergy Nuclear Operations, Inc, to NRC, Re: Response to Request for Additional Information Regarding License Transfer Application... Attachment 2 Proprietary (17 Pages) [NRC's 05/11/01 proprietary determination letter attached] Exemption 4