

April 14, 2005

Mr. Glenn Archinoff
ACR Licensing Manager
AECL Technologies, Inc.
481 North Frederick Avenue, Suite 405
Gaithersburg, MD 20877

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR ADVANCED CANDU REACTOR (ACR-700)

Dear Mr. Archinoff:

By letter dated February 14, 2005, AECL Technologies, Inc., submitted an affidavit dated February 18, 2005, executed by Mr. John Polcyn requesting that the following material be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390:

A CD containing CANDU Owners Group, Inc. (COG) proprietary report TN-03-2004, "The Summary of Non-Corium Commissioning Tests Completed in the Molten Fuel Moderator Interaction Facility," March 2004.

A non-proprietary version of this CD is not available.

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

1. This information is confidential and has been held in confidence by AECL, which is the parent company of AECL Technologies, Inc. The information is contained in AECL reports or other documents that are normally held in confidence in accordance with AECL's procedures for the protection of information. The reports or other documents are part of AECL's comprehensive safety and technology base for the CANDU design, and their commercial value extends beyond the original development costs, which in themselves are considerable.
2. The information is contained in CANDU Owners Group, Inc. (COG) reports that are held in confidence by both AECL and the Canadian nuclear utilities that participate in research and development programs via COG. There is a rational basis for holding the reports in confidence since the information contains sensitive technical and/or commercial information relating to the supporting research, design and/or operation of CANDU reactors. Also, COG reports are only distributed to participants in COG research and development programs. These participants expend significant amounts of money to fund the COG research and development programs, which produce the information described in these reports. Additionally, public disclosure by the NRC of the information contained in COG reports, which are supplied in confidence by the COG to

AECL, could jeopardize the future availability of such information to AECL. AECL is contractually obligated to COG and to other participants in COG programs to maintain the confidentiality of such reports. AECL relies, in part, on COG reports to improve the safety, operability and maintainability of the ACR, and to help develop and recommend improvements to enhance the safety, operability and maintainability of existing CANDU plants. COG would be reluctant to provide such information to AECL, and could move to restrict AECL Technologies' ability to provide such reports to the NRC, if there was a possibility that the NRC might make the information publicly available, after being supplied to the NRC by AECL Technologies, Inc. AECL would suffer harm to its commercial business and competitive position if it did not have access to these reports and was unable to improve existing and future designs. Further, other participants in COG research and development programs would be reluctant to enter into such programs in which AECL was a participant; those participants enter into and fund such programs with the expectation that the results will remain confidential to COG and program participants; if there is a possibility that information generated in such programs would become publicly available through AECL Technologies' provision of COG reports to the NRC, they will not wish to participate in research programs with AECL. For the same reason, disclosure of such reports by the NRC would also hinder the ability of the NRC to receive similar reports in the future from AECL Technologies, since COG would likely withhold such reports from AECL.

3. This information is being transmitted to the NRC in confidence.
4. This information is generally not available in public sources and could not be gathered readily from other publicly available information.
5. Public disclosure of this information would create substantial harm to the competitive position of AECL by disclosing sensitive commercial information about the design and/or operation of CANDU reactors and/or the ACR to other parties whose commercial interests may be adverse to those of AECL. Also, the information contained in these reports has been developed at significant costs to AECL (the parent company of AECL Technologies).

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 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 material listed above and identified as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.390(a)(4) and 9.17(a)(4).

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

G. Archinoff

-3-

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 301-415-2875.

Sincerely,

/RA/

Amy E. Cabbage, Project Manager
New Reactors Section
New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Project No. 722

cc: See next page

G. Archinoff

-3-

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 301-415-2875.

Sincerely,

/RA/

Amy E. Cabbage, Project Manager
New Reactors Section
New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Project No. 722

cc: See next page

Distribution

Hard Copy

RNRP R/F

LDudes

ACabbage

E-Mail

ACabbage

MRubin

RPalla

*See previous concurrence

ADAMS ACCESSION NUMBER: ML050970444

OFFICE	RNRP/PM	DSSA/SPSB	SC:RNRP*
NAME	ACabbage	MRubin	LDudes
DATE	4/14/05	4/13/05	4/13/05

OFFICIAL RECORD COPY

ACR-700

cc:

Mr. Charles Brinkman
Westinghouse Electric Co.
Washington Operations
12300 Twinbrook Parkway, Suite 330
Rockville, MD 20852

Mr. Thomas P. Miller
U.S. Department of Energy
NE-20, Rm. A286
Headquarters - Germantown
19901 Germantown Road
Germantown, MD 20874-1290

Mr. David Lochbaum
Nuclear Safety Engineer
Union of Concerned Scientists
1707 H Street, NW, Suite 600
Washington, DC 20006-3919

Mr. Paul Gunter
Nuclear Information & Resource Service
1424 16th Street, NW, Suite 404
Washington, DC 20036

Mr. James Riccio
Greenpeace
702 H Street, NW, Suite 300
Washington, DC 20001

Mr. Adrian Heymer
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

Ms. Patricia Campbell
Morgan Lewis
1111 Pennsylvania Avenue
Washington, DC 20004

Mr. Paul Leventhal
Nuclear Control Institute
1000 Connecticut Avenue, NW
Suite 410
Washington, DC 20036

Dr. Jack W. Roe
Vice President
Advanced Technologies & Laboratories
International, Inc.
20010 Century Boulevard, Suite 500
Germantown, MD 20874

Mr. Brendan Hoffman
Research Associate on Nuclear Energy
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Mr. Tom Clements
6703 Gude Avenue
Takoma Park, MD 20912

Mr. Glenn H. Archinoff
AECL Technologies
481 North Frederick Avenue
Suite 405
Gaithersburg, MD. 20877

Mr. Victor G. Snell
Director of Safety and Licensing
Atomic Energy of Canada Limited
2251 Speakman Drive
Mississauga, Ontario
Canada L5K 1B2

Mr. Glenn R. George
PA Consulting Group
130 Potter Street
Haddonfield, NJ 08033

Mr. J. Alan Beard
GE Nuclear Energy
13113 Chestnut Oak Drive
Darnestown, MD 20878-3554

Mr. Ian M. Grant
Canadian Nuclear Safety Commission
280 Slater Street, Station B
P.O. Box 1046
Ottawa, Ontario
K1P 5S9

Mr. Gary Wright, Manager
Office of Nuclear Facility Safety
Illinois Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704

Mr. Ronald P. Vijuk
Manager of Passive Plant Engineering
AP1000 Project
Westinghouse Electric Company
P. O. Box 355
Pittsburgh, PA 15230-0355

Dr. Greg Rzentkowski
Canadian Nuclear Safety Commission
P.O. Box 1046, Station 'B'
280 Slater Street,
Ottawa, ON, K1P 5S9
Canada

Mr. Ed Wallace, General Manager
Projects
PBMR Pty LTD
PO Box 9396
Centurion 0046
Republic of South Africa

Mr. Russell Bell
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

Mr. Ken Petrunik
Vice President, Project and Services
Atomic Energy of Canada, Limited
2251 Speakman Drive
Mississauga, Ontario
Canada L5K 1B2

Mr. Ron Simard
6170 Masters Club Drive
Suwanee, GA 30024

Mr. Jerald S. Holm
Framatome ANP, Inc.
3315 Old Forest Road
P.O. Box 10935
Lynchburg, VA 24506-0935

Ms. Kathryn Sutton, Esq.
Morgan, Lewis & Bocklus, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

E-Mail:

mwetterhahn@winston.com

whorin@winston.com

gcesare@enercon.com

gerald.holm@framatome-anp.com