

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 17, 2005, AECL Technologies, Inc., submitted an affidavit dated February 25, 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:

Attachment 1 to the February 17, 2005, letter provides AECL's proprietary information on thermal-hydraulic data for the ACR -700 application.

A non-proprietary copy of this document has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ADAMS Accession No. ML050630207).

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.

G. Archinoff

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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 301-415-2875.

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

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ACR-700

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