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STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

September 20, 2005

Martin J. Virgilio
Deputy Executive Director for Materials, Research,
State and Compliance Programs
Office of the Executive Director of Operations
Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Virgilio:

I am responding to a comment made in your August 25, 2005 letter to Ms. Patricia Bloomgren, Director of the Environmental Health Division of the Minnesota Department of Health. Your comment was in response to statements in Minnesota Public Utilities Commission Staff briefing papers in the matter of the Monticello nuclear plant spent fuel storage facility certificate of need (Docket No. E-002/CN-05-123) and dealt with the protected status of safeguards information (SGI).

The Commission understands that 10 C.F.R. 73.21 (c) limits access to SGI. The Commission also understands that it may be eligible for access but that federal regulation limits the Commission's ability to release such information. In addition, it appears that discussion of nearly all aspects of SGI in a Commission meeting requires closing of the meeting to the public. Minnesota Statutes section 13D.05, subd. 3(d) also allows the Commission to close meetings "to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure and facilities, if disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses."

It is also noteworthy that SGI would likely meet the definition of "security information" under Minn. Stat. §13.37, Subd. 1(a) and, therefore, would be nonpublic under state law.

In sum, there appears to be ample support for the Commission maintaining any data it receives that meets the definition of "safeguards information" as nonpublic and closing any meeting to discuss security matters raised by SGI.

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I hope this clarifies for you the Commission's understanding of its responsibilities with respect to the proper handling of SGI.

Sincerely,



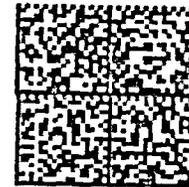
Burl W. Haar
Executive Secretary

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Marshall Johnson, Commissioner
Ken Nickolai, Commissioner
Tom Pugh, Commissioner
Patricia Bloomgren, Minnesota Department of Health
Kari Zipko, Office of the Attorney General



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