



A Global Energy Company

March 27, 2006

AET 06-0044

Mr. Jack R. Strosnider
Director, Office of Nuclear Material Safety and Safeguards
Attention: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

**American Centrifuge Plant
Docket Number 70-7004
Submittal of Integrated Safety Analysis Supporting Document – Proprietary and Export Controlled
Information**

**INFORMATION TRANSMITTED HERewith IS PROTECTED FROM PUBLIC
DISCLOSURE AS CONFIDENTIAL COMMERCIAL OR FINANCIAL INFORMATION
AND/OR TRADE SECRETS PURSUANT TO 10 CFR 2.390 AND 9.17(a)(4)
and
INFORMATION TRANSMITTED HERewith IS PROTECTED FROM
DISCLOSURE PURSUANT TO 10 CFR PART 810**

Dear Mr. Strosnider:

Pursuant to a verbal request from U.S. Nuclear Regulatory Commission (NRC) staff, USEC Inc. (USEC) submits an Engineering Evaluation (EE-3601-0014, Revision 0) entitled "Nuclear Criticality Safety Reports 'What if...' Hazard Analysis Review for the American Centrifuge Plant" utilized to document the review of the Nuclear Criticality Safety (NCS) Reports for the American Centrifuge Plant as Enclosure 1 of this letter.

Enclosure 1 contains USEC Proprietary Information and USEC requests this enclosure be withheld from public disclosure pursuant to 10 *Code of Federal Regulations* (CFR) 2.390(a)(4). An affidavit required by 10 CFR 2.390(b)(1)(ii) is provided in Enclosure 2. Also, Enclosure 1 has been determined, in accordance with the guidance provided by the U.S. Department of Energy, to contain Export Controlled Information. This information must be protected from disclosure per the requirements of 10 CFR Part 810.

If you have any questions regarding this matter, please contact Peter J. Miner at (301) 564-3470.

Sincerely,

Steven A. Toelle
Director, Regulatory Affairs

cc: Y. Faraz, NRC HQ
B. Smith, NRC HQ
C. Tripp, NRC HQ

Enclosures: As Stated

NUMS01

Enclosure 2 to AET 06-0044

Affidavit

**AFFIDAVIT OF STEVEN A. TOELLE
SUPPORTING APPLICATION TO WITHHOLD FROM
PUBLIC DISCLOSURE CERTAIN INFORMATION CONTAINED IN ENCLOSURE 1
FOR THE AMERICAN CENTRIFUGE PLANT**

I, Steven A. Toelle, of USEC Inc. (USEC), having been duly sworn, do hereby affirm and state:

1. I have been authorized by USEC to (a) review the information owned by USEC which is referenced herein relating to the U.S. Nuclear Regulatory Commission (NRC) Request for Additional Information (RAI) for the American Centrifuge Plant (ACP) and which USEC seeks to have withheld from public disclosure pursuant to section 147 of the *Atomic Energy Act* (AEA), as amended, 42 U.S.C § 2167, and 10 CFR 2.390(a)(3), 2.390(a)(4), 2.390(d)(1) and 9.17(a)(4), and (b) apply for the withholding of such information from public disclosure by the NRC on behalf of USEC.

2. Consistent with the provisions of 10 CFR 2.390(b)(4) of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.
 - i. The information sought to be withheld from public disclosure is owned and has been held in confidence by USEC.
 - ii. The information is of a type customarily held in confidence by USEC and not customarily disclosed to the public. USEC has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitute USEC policy and provide the rational

basis required. Under that system, information is held in confidence if it falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

- a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where presentation of its use by any of USEC's competitors without license from USEC constitutes a competitive economic advantage over other companies.
 - b) It consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), the application of which data secures a competitive economic advantage (e.g., by optimization or improved marketability).
 - c) Its use by a competitor would reduce their expenditure of resources or improve their competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing a similar product.
 - d) It reveals cost or price information, production capacities, budget levels, or commercial strategies of USEC, its customers or suppliers.
 - e) It reveals aspects of past, present, or future USEC or customer funded development plans and programs of potential commercial value to USEC.
 - f) It contains patentable ideas, for which patent protection may be desirable.
 - g) It reveals information concerning the terms and conditions, work performed, administration, performance under or extension of contracts with its customers or suppliers.
- iii. There are sound policy reasons behind the USEC system which include the following:
- a) The use of such information by USEC gives USEC a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the USEC competitive position.

- b) It is information, which is marketable in many ways. The extent to which such information is available to competitors diminishes USEC's ability to sell products and services involving the use of the information.
 - c) Use by our competitors would put USEC at a competitive disadvantage by reducing their expenditure of resources at USEC expense.
 - d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components or proprietary information, any one component may be the key to the entire puzzle, thereby depriving USEC of a competitive advantage.
 - e) Unrestricted disclosure would jeopardize the position of prominence of USEC in the world market, and thereby give a market advantage to the competition of those countries.
 - f) The USEC capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.
- iv. The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.390, it is to be received in confidence by the Commission.
- v. The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
3. The proprietary information sought to be withheld is contained in Enclosure 1 to USEC letter AET 06-0044. Specifically, Enclosure 1 provides an Engineering Evaluation (EE-3601-0014, Revision 0) entitled "Nuclear Criticality Safety Reports 'What if...' Hazard Analysis Review for the American Centrifuge Plant" which documents the review of the Nuclear Criticality Safety

(NCS) Reports NCS-RPT-AC-01, Rev 2; NCS-RPT-AC-02, Rev. 1; NCS-RPT-AC-03, Rev. 1; NCS-RPT-AC-04, Rev. 1; NCS-RPT-AC-05, Rev. 1; NCS-RPT-AC-06, Rev. 1; NCS-RPT-AC-07, Rev. 2; and NCS-RPT-AC-08, Rev. 2 to ensure the “What-If” events within these NCS Reports were adequately addressed within Integrated Safety Analysis (ISA) criticality accident event sequences. Each “What-if” event is dispositioned to either be associated with one or more ISA Summary event sequences and the relationship is explained, or justification is provided as to why no association is appropriate. The proprietary information submitted by USEC is information verbally requested by the NRC staff in preparation for a ISA Vertical Slice review. Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of USEC because it may enhance the ability of competitors to position and provide similar products. Moreover, disclosure of the details of the cost estimates may provide insights into USEC’s forward pricing rates.

This information is part of that which will enable USEC to:

- Deploy the ACP;
- Implement its NCS program in compliance with the performance requirements contained in 10 CFR 70.61;
- Analyze and document the hazard evaluations associated with criticality event sequences discussed in the ISA Summary; and
- Analyze and document the hazard evaluations associated with criticality event sequences discussed in the Addendum 1 of the ISA Summary for Initial Deployment.

Further, this information has substantial commercial value as follows:

- The development of the information described in part is the result of applying many person-hours and the expenditure of thousands of dollars on analysis to develop the information that is sought to be withheld; and
- In order for a competitor of USEC to duplicate this information sought to be withheld, a similar process would have to be undertaken and a significant effort and resources would have to be expended.

Further the deponent sayeth not.

Steven A. Toelle, having been duly sworn, hereby confirms that I am the Director, Regulatory Affairs of USEC, that I am authorized on behalf of USEC to review the information attached hereto and to sign and file with the U.S. Nuclear Regulatory Commission this affidavit and the attachments hereto, and that the statements made and matters set forth herein are true and correct to the best of my knowledge, information, and belief.

S. A. Toelle

Steven A. Toelle

On this 27th day of March 2006, the individual signing above personally appeared before me, is known by me to be the person whose name is subscribed to within the instrument, and acknowledged that he executed the same for the purposes therein contained. In witness hereof I hereunto set my hand and official seal.

Rita L. Peak-Campbell
Rita L. Peak-Campbell, Notary Public
State of Maryland, Montgomery County
My commission expires December 1, 2009