May 22, 2007

Mr. Gary L. Vine, Executive Director
Federal and Industry Activities, Nuclear Sector
Electric Power Research Institute
2000 L Street, N.W., Suite 805
Washington, DC 20036

SUBJECT: ELECTRIC POWER RESEARCH INSTITUTE (EPRI), REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE (TAC NO. MD3344)

Dear Mr. Vine:

By letter dated April 10, 2007, the EPRI submitted an affidavit dated April 10, 2007, executed by Mr. David J. Modeen, Vice President and Chief Nuclear Officer, requesting that the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

> EPRI Report No. 1011753, "Design Basis Accident Testing of Pressurized Water Reactor Unqualified Original Equipment Manufacturer Coatings."

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

a. The Report is owned by EPRI and constitutes commercial information which has not been placed in the public domain by EPRI.

b. EPRI made a substantial economic investment to develop the Report and, by prohibiting public disclosure, EPRI derives an economic benefit in the form of fees charged for the sale of the Report. The Report is entitled to the protection of the United States copyright laws. If the Report was publicly available to consultants and/or other businesses providing services in the electric and/or nuclear power industry at no cost, these entities would be able to use the Report for their own commercial benefit and profit and without expending the substantial economic resources required of EPRI to develop the Report.

c. EPRI made a substantial investment of both money and employee hours over an extended period of time in the development of the Report. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the Report is highly valuable to EPRI.

d. A public disclosure of the Report would be highly likely to cause substantial harm to EPRI's competitive position and the ability to sell the Report both domestically and internationally. If a party does not purchase the Report from EPRI, it would require an investment of money, time and effort equivalent to the expended by EPRI for the party to duplicate the Report.

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, EPRI Report No. 1011753, "Design Basis Accident Testing of Pressurized Water Reactor Unqualified Equipment Manufacturer Coatings," marked as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5).

The NRC staff acknowledges EPRI's request that the NRC not divulge the report to anyone outside of the NRC. However, withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. In addition, 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 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 301-415-3610.

Sincerely,

/RA/

Tanya M. Mensah, Senior Project Manager
Special Projects Branch
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Project No. 669

cc: Mailing List

May 22, 2007

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Tanya M. Mensah, Senior Project Manager
Special Projects Branch
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Office of Nuclear Reactor Regulation

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