

SUNSI Review Complete



August 29, 2008
AET 08-0063

Designated
original

Mr. Michael F. Weber
Director, Office of Nuclear Material Safety and Safeguards
ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

**American Centrifuge Lead Cascade Facility
Docket Number 70-7003; License Number SNM-7003**

**Submission of USEC Inc.'s Response to a Request for Additional Information for the
American Centrifuge Lead Cascade Facility – ~~USEC Proprietary Information 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. Weber:

In a letter dated August 14, 2008 (Reference 1), the U.S. Nuclear Regulatory Commission (NRC) requested additional information regarding a License Amendment Request to recapture the construction and testing time prior to facility operations for Facility License SNM-7003. The NRC's letter requested that USEC Inc. (USEC) respond within 14 days of receipt of the letter. USEC received the letter on August 25, 2008. Accordingly, Enclosure 1 of this letter provides our response.

Enclosure 1 contains USEC Proprietary Information and should be withheld from public disclosure per 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. Enclosure 1 has also 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.

~~USEC Proprietary Information and Export Controlled Information~~ Withhold Under 10 CFR 2.390
When separated from Enclosures, this cover letter is uncontrolled.

USEC Inc.
6903 Rockledge Drive, Bethesda, MD 20817-1818
Telephone 301-564-3200 Fax 301-564-3201 <http://www.usec.com>

NM5501

Received JED
2/19/09

Mr. Michael F. Weber
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If you have any questions regarding this matter, please contact me at (301) 564-3470 or Charles D. Ladd at (740) 897-3145.

Sincerely,



Peter J. Miner
Director, Regulatory and Quality Assurance

cc: J. Downs, NRC HQ
S. Echols, NRC HQ
J. Henson, NRC Region II
B. Smith, NRC HQ

Enclosure: As Stated

Reference:

1. NRC letter to P.J. Miner (USEC) from S. Echols (NRC) regarding American Centrifuge Lead Cascade Facility License Amendment Request – Request for Additional Information, dated August 14, 2008

Enclosure 1 of AET 08-0063

**Response to NRC's Request for Additional Information Regarding License
Amendment Request to Recapture the Construction and Testing Time Prior to
Facility Operations for Facility License SNM-7003**

~~USEC PROPRIETARY INFORMATION~~ →

~~EXPORT CONTROLLED INFORMATION~~

~~Contains technical data whose export is restricted by statute. Violations may result in administrative, civil, or criminal penalties. Limit dissemination to U.S. Department of Energy employees and contractors and other U.S. Government agencies. The cognizant program manager must approve other dissemination. This notice shall not be separated from the attached document.~~

Reviewer: D. Hupp

Date: 08/22/08

Enclosure 2 of AET 08-0063

Affidavit

**AFFIDAVIT OF PETER J. MINER
SUPPORTING APPLICATION TO WITHHOLD FROM
PUBLIC DISCLOSURE CERTAIN INFORMATION CONTAINED IN
ENCLOSURE 1 FOR THE AMERICAN CENTRIFUGE PLANT**

I, Peter J. Miner, 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 and is referenced herein relating to Enclosure 1 regarding USEC's response to the U.S. Nuclear Regulatory Commission's (NRC's) Request for Additional Information regarding the License Amendment Request to recapture the construction and testing time prior to the American Centrifuge Lead Cascade Facility (LC) Operations - Facility License SNM-7003, 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.

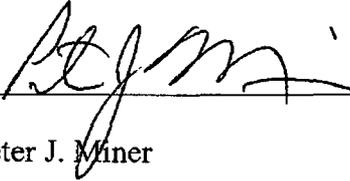
iv. The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.390, it is to be received in confidence by the

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 08-0063. Enclosure 1 contains USEC's response to NRC's Request for Additional Information regarding the License Amendment Request to recapture the construction and testing time prior to LC facility operations - Facility License SNM-7003. The proprietary detailed information contained within Enclosure 1 has not been previously disclosed and is likely to cause substantial harm to the competitive position of USEC because it contains details of our testing and demonstration efforts related to the LC. Moreover, this information is part of that which will enable USEC to deploy the American Centrifuge Plant (ACP). This information may be disclosed to the U.S. Department of Energy consistent with on-going discussions concerning deployment of the ACP and likewise, will be requested to be withheld from public disclosure.

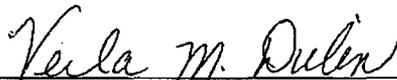
Further the deponent sayeth not.

Peter J. Miner, having been duly sworn, hereby confirms that I am the Director, Regulatory and Quality Assurance 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.


Peter J. Miner

State of Ohio)
) ss.
County of Pike)

On this 29th day of August 2008, 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.


Verla M. Dulin, Notary Public
My commission expires January 2, 2013