



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 13, 2009

Ms. Pamela B. Cowan
Director, Licensing and Regulatory Affairs
Exelon Generation Company LLC
Correspondence Control
P.O. Box 160
Kennett Square, PA 19348

SUBJECT: PEACH BOTTOM ATOMIC POWER STATION, UNIT NOS. 2 AND 3: REQUEST
FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(TAC NOS. MD9154 AND MD9155)

Dear Ms. Cowan:

By letter to the Nuclear Regulatory Commission (NRC) dated March 9, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090690804), Exelon Generation Company, LLC, (Exelon) submitted an affidavit dated March 7, 2009, executed by Mr. Kenneth O. Lindquist, President, Northeast Technology Corporation, requesting that the information contained in the following documents be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390(a)4:

"Criticality Analysis of the Peach Bottom Spent Fuel Racks for GNF-2 Fuel with Boraflex Panel Degradation Projected to May 2010," designated as NET-264-02, Rev. 2

"Characterization of Boraflex Panel Degradation in the Peach Bottom Unit 2 Spent Fuel Pool Projected to May 2010," designated as NET-264-03, Rev. 0

"Responses for Request for Additional Information [RAI]," [designated as Attachment 4 to Exelon letter dated March 9, 2009, (ADAMS Accession No. ML090690804).]

Section 2.390(b) of 10 CFR Part 2 of the Commission's regulations requires that the procedures of that section be followed by anyone submitting a document to the NRC who seeks to have the document, or a portion of it, withheld from public disclosure because it contains trade secrets, privileged, or confidential commercial or financial information. As required by 10 CFR 2.390(b)(1)(i)(B), each document, or page, as appropriate, containing information sought to be withheld from public disclosure must indicate, adjacent to the information, or at the top if the entire page is affected, the basis for proposing that the information be withheld from public disclosure under paragraph (a) of 10 CFR 2.390.

The Attachments provided with the Exelon letter dated March 9, 2009 (ADAMS Accession No. ML090690804), have been reviewed in light of the aforementioned paragraphs of the regulations and the following deficiencies have been identified:

1. The responses to RAI questions 2, 4 and 15 in Attachment 4 list the average Boraflex degradation value as proprietary. However, Section A of Attachment 2 under "Step 1," identifies the same value for Boraflex average aerial density loss without any proprietary designation. Attachment 2 was submitted by Exelon to the NRC Document Control Desk as non-proprietary.
2. NETCO analysis NET-264-03 P (Attachment 5), page 1-1 and NET-264-02 P (Attachment 6), page 19, list the value for average Boraflex degradation as proprietary. However, page 42 of Attachment 6 references the value for average projected Boraflex degradation without any proprietary designation.
3. The responses to RAI questions 3 and 15 in Attachment 4 list the value for the maximum individual panel loss as proprietary. However, the response to RAI question 2 in Attachment 4 identifies the value for peak panel loss without any proprietary designation. Attachment 6, page 19, lists the same value for maximum rack loss without any proprietary designation, but, Figure 2-3 of Attachment 5 identifies the value for maximum panel loss as proprietary. In addition, page 8 of Attachment 6 identifies a similar value of maximum panel loss as proprietary.

Accordingly, consideration should be given to supplementing the present record with additional factual information. If such action is taken it is suggested that you furnish specific factual information for your application regarding the following:

- Resolve the inconsistent identification of proprietary information detailed in item (1) above and submit a revised Attachment 2 or Attachment 4, as appropriate, with the correct portion markings within the version of the document submitted with proprietary designations that indicate what information is sought to be withheld from public disclosure as required by 10 CFR 2.390(b)(1)(i)(B).
- Resolve the inconsistent identification of proprietary information detailed in item (2) above and submit a revised Attachment 5 and/or Attachment 6, as appropriate, with the correct portion markings within the version of the document submitted with proprietary designations that indicate what information is sought to be withheld from public disclosure as required by 10 CFR 2.390(b)(1)(i)(B).
- Resolve the inconsistent identification of proprietary information detailed in item (3) above and submit a revised Attachment 4, Attachment 5 or Attachment 6, as appropriate, with the correct portion markings within the version of the document submitted with proprietary designations that indicate what information is sought to be withheld from public disclosure as required by 10 CFR 2.390(b)(1)(i)(B).
- Review the entire submittal and ensure that no other proprietary information marking discrepancies exist and provide a new affidavit with a revised submittal.

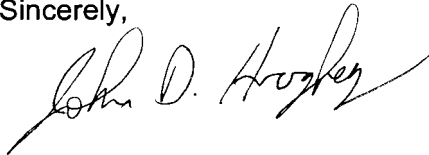
In summary, we have determined that the documents for which withholding from public disclosure is sought are not consistently marked in accordance with 10 CFR 2.390(b)(1)(i)(B). Consequently, we are unable to conclude at this time what scope of information submitted with the associated affidavit is proprietary.

In accordance with 10 CFR 2.390(c), the documents received by the NRC with no request for withholding will be placed in the Commission's Public Document Room 30 days after the date of this letter, with the inconsistently identified information, unless you either seek to withdraw the documents, or provide the U.S. Nuclear Regulatory Commission with revised documents that meet the requirements of 10 CFR 2.390(b)(1)(i)(B). If revised documents are not provided, or if the information is not withdrawn, the NRC will treat any inconsistently marked information as publically available.

Thomas Loomis from your staff acknowledged this response time on April 8, 2009. If you request that the information be withdrawn, your request will be considered in light of applicable statutes and regulations and a determination made whether the documents will be withheld from public disclosure and returned to you.

If you have any questions regarding this matter, I may be reached at 301-415-3204.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Hughey", with a stylized flourish at the end.

John D. Hughey, Project Manager
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-277 and 50-278

cc: Kenneth O. Lindquist, President
Northeast Technology Corporation
108 N. Front Street
UPO Box 4178
Kingston, NY 12402

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Sincerely,

/ra/

John D. Hughey, Project Manager
Plant Licensing Branch I-2
Division of Operating Reactor Licensing
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