

Southern Nuclear  
Operating Company, Inc.  
40 Inverness Center Parkway  
Birmingham, Alabama 35242



**MAY 22 2009**

Docket Nos.: 52-025  
52-026

ND-09-0831  
10 CFR 2

U.S. Nuclear Regulatory Commission  
Document Control Desk  
Washington, DC 20555-0001

Southern Nuclear Operating Company  
Vogtle Electric Generating Plant Units 3 and 4  
Region II AP1000 Module Status Meeting Presentation 10 CFR 2.390 Affidavit

Ladies and Gentlemen:

On May 5, 2009, Southern Nuclear Operating Company (SNC), along with its engineering, procurement and construction contractor for Vogtle Electric Generating Plant Units 3 and 4, Stone & Webster, Inc. – A Shaw Group company (S&W), met with the U.S. Nuclear Regulatory Commission (NRC) at the SNC offices in Birmingham, AL, and gave a presentation to the NRC on the AP1000 Module status. The presentation material provided to the NRC contained information considered proprietary (i.e., trade secrets) by S&W. Thus, SNC is requesting that the proprietary information be withheld from public disclosure (i.e., non-publicly available), in accordance with 10 CFR 2.390(b). The proprietary information sought to be withheld is appropriately marked in the proprietary PowerPoint presentation entitled "Proprietary AP1000 Module Status NRC Region II / SNC Meeting." Enclosure 1 to this letter contains an affidavit for withholding, executed by S&W and prepared in accordance with 10 CFR 2.390. Enclosure 2 contains the proprietary version of the presentation material and Enclosure 3 contains a non-proprietary version (i.e., publicly available) of the presentation material.

If you have any questions regarding this letter, please contact Mr. J. T. Davis at (205) 992-7692.

DO92  
NRC

Respectfully submitted,

SOUTHERN NUCLEAR OPERATING COMPANY

A handwritten signature in black ink that reads "Charles R. Pierce". The signature is written in a cursive style with a large, prominent initial "C".

Charles R. Pierce  
Technical Support Licensing Manager

CRP/BJs/dmw

Enclosures:

1. S&W Affidavit for Withholding
2. Proprietary AP1000 Module Status Presentation Slides
3. Publicly Available AP1000 Module Status Presentation Slides

cc: Southern Nuclear Operating Company

Mr. J. H. Miller, III, President and CEO (w/o enclosure)  
Mr. J. T. Gasser, Executive Vice President, Nuclear Operations (w/o enclosure)  
Mr. D. H. Jones, Site Vice President, Vogtle 3 & 4 (w/o enclosure)  
Mr. T. E. Tynan, Vice President - Vogtle (w/o enclosure)  
Mr. D. M. Lloyd, Vogtle Deployment Director  
Mr. M. K. Smith, Technical Support Director  
Mr. C. R. Pierce, Vogtle Development Licensing Manager  
Mr. M. J. Ajluni, Nuclear Licensing Manager  
Mr. J. T. Davis, ESP Project Engineer  
Document Services RTYPE: AR01.1053  
File AR.01.02.06

Nuclear Regulatory Commission

Mr. L. A. Reyes, Region II Administrator  
Mr. F.M. Akstulewicz, Deputy Director Div. of Safety Systems & Risk Assess. (w/o enclosure)  
Ms. S. M. Coffin, AP1000 Manager of New Reactors (w/o enclosure)  
Mr. R. G. Joshi, Lead Project Manager of New Reactors (w/o enclosure)  
Mr. B. Hughes, Project Manager of New Reactors (w/o enclosure)  
Ms. T. E. Simms, Project Manager of New Reactors (w/o enclosure)  
Mr. B. C. Anderson, Project Manager of New Reactors (w/o enclosure)  
Mr. M. M. Comar, Project Manager of New Reactors (w/o enclosure)  
Mr. M. D. Notich, Environmental Project Manager (w/o enclosure)  
Mr. J. H. Fringer, III, Environmental Project Manager (w/o enclosure)  
Mr. L. M. Cain, Senior Resident Inspector of VEGP  
Mr. L.R. Plisco, Deputy Regional Administrator, Construction  
Mr. A.J. Blamey, Branch Chief, Division of Construction Projects  
Mr. D.A. Ayres, Branch Chief, Division of Construction Projects

Georgia Power Company

Mr. O. C. Harper, IV, Vice President, Resource Planning and Nuclear Development  
(w/o enclosure)

Oglethorpe Power Corporation

Mr. M. W. Price, Executive Vice President and Chief Operating Officer (w/o enclosure)

Municipal Electric Authority of Georgia

Mr. S. M. Jackson, Vice President, Power Supply (w/o enclosure)

Dalton Utilities

Mr. D. Cope, President and Chief Executive Officer (w/o enclosure)

Bechtel Power Corporation

Mr. J. S. Prebula, Project Engineer (w/o enclosure)  
Mr. R. W. Prunty, Licensing Engineer (w/o enclosure)

Tetra Tech NUS, Inc.

Ms. K. K. Patterson, Project Manager (w/o enclosure)

Shaw Stone & Webster, Inc.

Mr. K. B. Allison, Project Manager (w/o enclosure)

Mr. J. M. Oddo, Licensing Manager

Mr. D. C. Shutt, Licensing Engineer

Westinghouse Electric Company, LLC

Mr. N. C. Boyter, Vice President, AP1000 Vogtle 3 & 4 Project (w/o enclosure)

Mr. J. L. Whiteman, Principal Engineer, Licensing & Customer Interface

NuStart Energy

Mr. R. J. Grumbir (w/o enclosure)

Mr. P. S. Hastings (w/o enclosure)

Mr. E. R. Grant (w/o enclosure)

Mr. B. Hirmanpour (w/o enclosure)

Mr. N. Haggerty (w/o enclosure)

Ms. K. N. Slays (w/o enclosure)

**Southern Nuclear Operating Company**

**ND-09-0831**

**Enclosure 1**

**S&W Affidavit for Withholding**

**NOTE:** This enclosure is 5 pages in length.

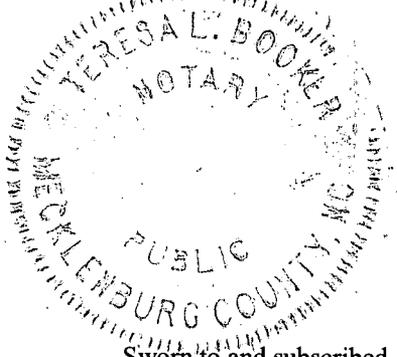
AFFIDAVIT

STATE OF NORTH CAROLINA:

SS

COUNTY OF MECKLENBERG:

Before me, the undersigned authority, personally appeared Keyes Niemer, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Stone & Webster, Inc. - A Shaw Group company (S&W), and that the statements of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:



Keyes Niemer  
Keyes Niemer  
Modules Program Manager

Sworn to and subscribed  
before me this        day  
of May 2009.

Amanda Barber

Notary Public

My Commission Expires  
June 27, 2011

- (1) I am Modules Program Manager, Stone & Webster, Inc. - A Shaw Group company (S&W), and as such, I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with nuclear power plant licensing proceedings, and am authorized to apply for its withholding on behalf of S&W.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.390 of the Commission's regulations and in conjunction with the "Application for Withholding" accompanying this Affidavit.
- (3) I have personal knowledge of the criteria utilized by S&W in designating information as a trade secret, privileged or as confidential commercial or financial information.
- (4) Pursuant to the provisions of paragraph (b)(4) of Section 2.390 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 (Proprietary PowerPoint presentation "AP1000 Module Status NRC Region II / SNC Meeting", May 5, 2009) should be withheld.
  - (i) The information sought to be withheld from public disclosure is owned and has been held in confidence by S&W.
  - (ii) The information is of a type customarily held in confidence by S&W and not customarily disclosed to the public. S&W has a rational basis for determining the types of information customarily held in confidence by it.

The 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 prevention of its use by any of S&W's competitors without license from S&W 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 his expenditure of resources or improve his 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 S&W, its customers or suppliers.
- (e) It reveals aspects of past, present, or future S&W or customer funded development plans and programs of potential commercial value to S&W.
- (f) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the S&W system which include the following:

- (a) The use of such information by S&W gives S&W a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the S&W competitive position.
- (b) It is information that is marketable in many ways. The extent to which such information is available to competitors diminishes the S&W ability to sell products and services involving the use of the information.
- (c) Use by our competitor would put S&W at a competitive disadvantage by reducing his expenditure of resources at our 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 of proprietary information, any one component

may be the key to the entire puzzle, thereby depriving S&W of a competitive advantage.

- (e) Unrestricted disclosure would jeopardize the position of prominence of S&W in the world market, and thereby give a market advantage to the competition of those countries.
- (f) The S&W capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.
- (iii) 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.
- (iv) 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.
- (v) The proprietary information sought to be withheld in this submittal is that which is appropriately marked in the Proprietary PowerPoint presentation "AP1000 Module Status NRC Region II / SNC Meeting", May 5, 2009, and is being transmitted by the accompanying letter and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk.

This information is part of that which will enable S&W to:

- (a) Manufacture and deliver products to utilities based on proprietary designs.
- (b) Determine compliance with regulations and standards
- (c) Establish design requirements and specifications for the system.

Further this information has substantial commercial value as follows:

- (a) S&W plans to sell the use of similar information to its customers for purposes of plant construction and operation.

- (b) S&W can sell support and defense of safety systems based on the technology in the reports.
- (c) The information requested to be withheld reveals the distinguishing aspects of an approach and schedule which was developed by S&W.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of S&W because it would enhance the ability of competitors to provide similar systems and services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

The development of the technology described in part by the information is the result of applying the results of many years of experience in an intensive S&W effort and the expenditure of a considerable sum of money.

In order for competitors of S&W to duplicate this information, similar technical programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended.

## **PROPRIETARY INFORMATION NOTICE**

Transmitted herewith are proprietary and/or non-proprietary versions of documents furnished to the NRC in connection with requests for generic and/or plant-specific review and approval.

In order to conform to the requirements of 10 CFR 2.390 of the Commission's regulations concerning the protection of proprietary information so submitted to the NRC, the information which is proprietary in the proprietary versions is contained within brackets; and where the proprietary information has been deleted in the non-proprietary versions, only the brackets remain (the information that was contained within the brackets in the proprietary versions having been deleted). The justification for claiming the information so designated as proprietary is indicated in both versions by means of lower case letters (a) through (f) located as a superscript immediately following the brackets enclosing each item of information being identified as proprietary or in the margin opposite such information. These lower case letters refer to the types of information S&W customarily holds in confidence identified in Sections (4)(ii)(a) through (4)(ii)(f) of the affidavit accompanying this transmittal pursuant to 10 CFR 2.390(b)(1).