

September 11, 2009

Richard E. Reimels
President
B&W Nuclear Power Generation Group
800 Main Street
Lynchburg, VA 24505

SUBJECT: B&W MPOWER MODULAR REACTOR - WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE IN REPORT ON DESIGN
APPROACH TO REACTIVITY CONTROL (TAC NO. Q00168)

Dear Sir:

By letter dated June 23, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML092370726), B&W Nuclear Power Generation Group submitted (1) an affidavit (ADAMS Accession No. ML09092370723) executed by you on June 22, 2009, and (2) a report entitled "B&W mPower™ Modular Reactor Approach to Reactivity Control." The affidavit requested that the information marked as "B&W Confidential Commercial Information" in the report be withheld from public disclosure pursuant to Section 2.390 of Part 2, "Rules of practice for domestic licensing proceedings and issuance of orders," in Title 10 of the *Code of Federal Regulations* (10 CFR 2.390). The report provided information on the approach to reactivity control for the mPower™ reactor design that was the subject of the closed portion of the meeting held with the staff of the Nuclear Regulatory Commission (NRC) on July 7, 2009.

A nonproprietary copy of the above report was submitted to NRC by letter dated July 17, 2009 (ADAMS Accession No. ML092030447), from the B&W Nuclear Power Generation Group. This nonproprietary report has been placed in the NRC's Public Document Room and added to the ADAMS Public Electronic Reading Room, and is available to the public.

In the above affidavit dated June 22, 2009, you stated that the information designated "B&W Confidential Commercial Information" (i.e., proprietary) in the above report submitted by letter dated June 23, 2009, is exempt from mandatory public disclosure for the following reasons:

- 4(a) The information requested to be withheld reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) whose use by any of the B&W's competitors, without a license from the submitter, would constitute a competitive economic disadvantage to B&W.
- 4(b) Use by a competitor of the information requested to be withheld would reduce the competitor's expenditure of resources, or improve its competitive position, in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
- 4(c) The information requested to be withheld reveals aspects of privately funded development plans or programs of commercial value to B&W.

4(d) The information requested to be withheld consists of patentable ideas.

The above report was submitted by letter dated June 23, 2009, for the closed portion of the meeting that B&W Nuclear Power Generation Group held with NRC on July 7, 2009. As indicated in the meeting notice dated June 24, 2009, and the revised meeting notice (to change the meeting room location) dated July 7, 2009 (ADAMS Accession Nos. ML091740724 and ML091870226, respectively), the meeting had open and closed sessions to discuss (1) the B&W mPower™ reactor design in general (open session) and (2) the approach to reactivity control for the mPower™ reactor design (closed session). During the closed session of the meeting, the information in the proprietary version of the report was presented to NRC.

We have reviewed the affidavit and the material designated as proprietary in the report entitled "B&W mPower™ Modular Reactor Approach to Reactivity Control," both of which were submitted in the June 23, 2009, letter. In accordance with 10 CFR 2.390 and, on the basis of the affidavit and report, we have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the information marked as proprietary in the report will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the report. 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 301-415-7490.

Sincerely,

/RA/

William D. Reckley, Branch Chief
Advanced Reactors Branch 1
Advanced Reactor Program
Office of New Reactors

Project No. 0776

cc: See next page

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If you have any questions regarding this matter, I may be reached at 301-415-1307.

Sincerely,

/RA/

William D. Reckley, Branch Chief
Advanced Reactors Branch 1
Advanced Reactor Program
Office of New Reactors

Project No. 0776

cc: See next page

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TKenyon, NRO

ADAMS Accession Number: ML092470158

NRC-001

OFFICE	PM:NRO/ARP/ARB1	PM:NRO/ARP/ARB2	BC:NRO/ARP/ARB1
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DATE	09/08/2009	09/08/2009	09/11/2009

OFFICIAL RECORD COPY

DC B&W mPower
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Revised 07/13/2009)

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