

November 17, 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 SLIDES FOR
PRE-APPLICATION MEETING HELD ON OCTOBER 27, 2009
(TAC NO. Q00301)

Dear Sir:

By letter dated November 2, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML093100359), B&W Nuclear Power Generation Group submitted (1) an affidavit (also at ADAMS Accession No. ML093100359) executed by you on November 2, 2009, and (2) six sets of meeting slides. The six sets of slides are a proprietary version and a non-proprietary (i.e., redacted) version of the following three sets of slides dated October 27, 2009, entitled: (1) "Update for the B&W mPower Design," (2) "B&W mPower™ Design Verification Test Program," and (3) "B&W mPower™ Reactor General Design Criteria (GDC) Conformance."

The affidavit requested that the information marked as "B&W Confidential Commercial Information" in the above three sets of proprietary slides be withheld from public disclosure. This would be 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 slides provided information on the mPower™ reactor design, the design verification test program, and the design conformance to the GDC criteria of 10 CFR Part 50. The slides were the subject of the closed portion of the pre-application meeting on October 27, 2009, that the staff of the Nuclear Regulatory Commission (NRC) held with B&W Nuclear Power Generation Group on the mPower design.

The non-proprietary copies of the above three sets of slides have been added to the ADAMS Public Electronic Reading Room at ADAMS Accession no. ML093100360 and are available to the public.

In the above affidavit dated November 2, 2009, you stated that the information designated "B&W Confidential Commercial Information" (i.e., proprietary) in the above sets of slides submitted by

letter dated November 2, 2009, should be withheld from 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 three sets of slides were submitted by letter dated November 2, 2009, for the closed portion of the pre-application meeting that B&W Nuclear Power Generation Group held with NRC on October 27, 2009. As indicated in the meeting notice dated October 13, 2009 (ADAMS Accession Nos. ML092810052), the meeting had open and closed sessions to discuss (1) the mPower™ reactor design in general and human factors issues (open session) and (2) recent changes to the mPower™ design, the integrated test plan, and compliance with the GDCs for the mPower™ reactor design (closed session). During the closed session of the meeting, the information in the three sets of proprietary slides was presented to the NRC staff.

We have reviewed the affidavit and the material designated as proprietary in the three sets of proprietary slides entitled (1) "Update for the B&W mPower Design," (2) B&W mPower™ Design Verification Test Program," and (3) B&W mPower™ Reactor General Design Criteria (GDC) Conformance." Although these slides were submitted to NRC in the November 2, 2009, letter, the NRC staff was able to review copies of these slides before the meeting. In accordance with 10 CFR 2.390 and, on the basis of the affidavit and the slides, we have determined that the submitted information in the slides sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the information marked as proprietary in the slides 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,

Stewart L. Magruder, Branch Chief
Advanced Reactor Branch 2
Advanced Reactor Program
Office of New Reactors

Project No. 0776

cc: See next page

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/

Stewart L. Magruder, Branch Chief
Advanced Reactor Branch 2
Advanced Reactor Program
Office of New Reactors

Project No. 0776

cc: See next page

DISTRIBUTION:

PUBLIC
ARP R/F
RidsNroArp
RidsNroArpArb1_2

ADAMS Accession No: ML093140524

NRO-002

OFFICE	PM:NRO/ARP/ARB1	PM:NRO/ARP/ARB2	BC:NRO/ARP/ARB2
NAME	JDonohew/ndr1	TKenyon	SMagruder
DATE	11/13/2009	11/13/2009	11/17/2009

OFFICIAL RECORD COPY

DC B&W mPower

(Revised 11/10/2009)

cc:

Mr. Glenn H. Archinoff
AECL Technologies
481 North Frederick Avenue
Suite 405
Gaithersburg, MD 20877

Michael L. Hammond
Technological Hazards Program Office
Radiological Emergency Preparedness
Program, Region X
U.S. Department of Homeland Security
130 228th Street, SW
Bothell, WA 98021

Mr. Lionel Batty
Nuclear Business Team
Graftech
12300 Snow Road
Parma, OH 44130

Mr. Brendan Hoffman
Research Associate on Nuclear Energy
Public Citizens Critical Mass Energy and
Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Russell Bell
Nuclear Energy Institute
1776 I Street, NW
Suite 400
Washington, DC 20006-3708

Mr. T.J. Kim
mPower Licensing Manager
B&W Nuclear Power Generation Group, Inc.
The Babcock & Wilcox Company
800 Main Street
P.O. Box 1180
Lynchburg, VA 24505-1180

Anne W. Cottingham
Assistant General Counsel
Nuclear Energy Institute
1776 I Street, NW, Suite 400
Washington, DC 20006

Mr. Paul Leventhal
Nuclear Control Institute
1000 Connecticut Avenue, NW
Suite 410
Washington, DC 20036

Mr. Ian M. Grant
Canadian Nuclear Safety Commission
280 Slater Street, Station B
P.O. Box 1046
Ottawa, Ontario
K1P 5S9

Mr. Dobie McArthur
Director, Washington Operations
General Atomics
1899 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006

Mr. Eugene S. Grecheck
Vice President
Nuclear Support Services
Dominion Energy, Inc.
5000 Dominion Blvd.
Glen Allen, VA 23060

Mr. David Repka
Winston & Strawn LLP
1700 K. Street, NW
Washington, DC 20006-3817

J.A. Halfinger
B&W mPower Program Developer
The Babcock & Wilcox Company
800 Main Street
P.O. Box 1180
Lynchburg, VA 24505-1180

Mr. Ron Simard
6170 Masters Club Drive
Suwanee, GA 30024

DC B&W mPower

Carlos Sisco
Senior Paralegal
Winston & Strawn LLP
1700 K Street NW
Washington, DC 20006

Mr. Robert E. Sweeney
IBEX ESI
4641 Montgomery Avenue
Suite 350
Bethesda, MD 20814

Mr. Ed Wallace
General Manager - Projects
PBMR Pty LTD
P. O. Box 9396
Centurion 0046
Republic of South Africa

DC B&W mPower

Email

Alan.Levin@areva.com (Alan Levin)
APH@NEI.org (Adrian Heymer)
bevans@enercon.com (Bob Evans)
BrinkmCB@westinghouse.com (Charles Brinkman)
carey.fleming@constellation.com (Carey Fleming)
cee@nei.org
charles.bagnal@ge.com
chris.maslak@ge.com (Chris Maslak)
collinlj@westinghouse.com (Leslie Collins)
curtisslaw@gmail.com (Jim Curtiss)
david.hinds@ge.com (David Hinds)
david.lewis@pillsburylaw.com (David Lewis)
deborah@hyperionpowergeneration.com (Deborah Ann Blackwell)
elyman@ucsusa.org
erg-xl@cox.net (Eddie R. Grant)
F.Shahrokhi@AREVA.Com (Farshid Shahrokhi)
gcesare@enercon.com (Guy Cesare)
jahalfinger@babcock.com (Jeff Halfinger)
james.beard@gene.ge.com (James Beard)
jerald.head@ge.com (Jerald G. Head)
jgutierrez@morganlewis.com (Jay M. Gutierrez)
Jim.Kinsey@inl.gov (James Kinsey)
jim.riccio@wdc.greenpeace.org (James Riccio)
jim@ncwarn.org (Jim Warren)
JNR@NuScalePower.com (Jose N. Reyes)
John.O'Neill@pillsburylaw.com (John O'Neill)
klingscl@westinghouse.com (Charles King)
kouhestani@msn.com (Amir Kouhestani)
KSutton@morganlewis.com (Kathryn M. Sutton)
Kwelter@NuScalePower.com (Kent Welter)
lchandler@morganlewis.com (Lawrence J. Chandler)
maria.webb@pillsburylaw.com (Maria Webb)
mark.beaumont@wsms.com (Mark Beaumont)
mark.holbrook@inl.gov (Mark Holbrook)
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)
meross@babcock.com (Megan Rossi)
mgiles@entergy.com (M. Giles)
murawski@newsobserver.com (John Murawski)
mwetterhahn@winston.com (M. Wetterhahn)
patriciaL.campbell@ge.com (Patricia L. Campbell)
paul.gaukler@pillsburylaw.com (Paul Gaukler)
Paul@beyondnuclear.org (Paul Gunter)
PLorenzini@NuScalePower.com (Paul Lorenzini)
pshastings@duke-energy.com (Peter Hastings)

DC B&W mPower

rbarrett@astminc.com (Richard Barrett)
rereimels@babcock.com (R.E. Reimels)
RSnuggerud@NuScalePower.com (Ross Snuggerud)
sandra.sloan@areva.com (Sandra Sloan)
sfrantz@morganlewis.com (Stephen P. Frantz)
stephan.moen@ge.com (Stephan Moen)
steven.hucik@ge.com (Steven Hucik)
Tansel.Selekler@nuclear.energy.gov (Tansel Selekler)
tgado@roe.com (Burns & Roe)
TJKim@babcock.com (T.J. Kim)
tom.miller@hq.doe.gov (Tom Miller)
tom.miller@nuclear.energy.gov (Thomas P. Miller)
trsmith@winston.com (Tyson Smith)
Vanessa.quinn@dhs.gov (Vanessa Quinn)
whorin@winston.com (W. Horin)