



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 6, 2014

Mr. Joseph M. Plona
Senior Vice President
and Chief Nuclear Officer
DTE Electric Company
Fermi Nuclear Plant, 210 NOC
6400 North Dixie Highway
Newport, MI 48166

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR FERMI NUCLEAR PLANT, UNIT 2 (TAC NO. MF0650)

Dear Mr. Plona:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated February 7, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13043A659), supplemented by letters dated March 8, 2013 (ADAMS Accession No. ML13070A197), April 5, 2013 (ADAMS Accession No. ML13095A456), June 7, 2013 (ADAMS Accession No. ML13161A080), July 15, 2013 (ADAMS Accession No. ML13197A121), and September 27, 2013 (ADAMS Accession No. ML13273A464), DTE Electric Company (DTE, or the licensee) submitted a license amendment request to increase the licensed core thermal power level at the Fermi Unit 2 from 3430 MWt to 3486 MWt. The approved license amendment would revise the Operating License and Technical Specifications to support operation at the increased licensed core thermal power. The licensee submitted proprietary documents and corresponding affidavits in the following four submittals:

1. Letter Dated February 7, 2013

In a letter dated February 7, 2013 (ADAMS Accession No. ML13043A659), DTE submitted as Enclosure 8, an affidavit dated February 1, 2013, executed by Jerald G. Head, General Manager of Regulatory Affairs at GE-Hitachi Nuclear Energy Americas LLC (GEH), requesting that information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 2.390:

NEDC-33578P, "Safety Analysis Report for Fermi Generating Station Unit 2 Thermal Power Optimization," Revision 0, dated January 2013.

The February 1, 2013, affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

(4)a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GEH's competitors without license from GEH constitutes a competitive economic advantage over other companies;

(4)b. Information that, if used 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 of a similar product.

There was an additional affidavit, also submitted as Enclosure 8, dated February 1, 2013, executed by Neil Wilmshurst, Vice President and Chief Nuclear Officer of the Electric Power Research Institute, Inc. (EPRI). This affidavit did not provide the specific reason for the information to be considered exempt from mandatory public disclosure. However, it was later revised in the June 7, 2013 submittal.

The nonproprietary version of NEDC-33578P "Safety Analysis Report for Fermi Generating Station Unit 2 Thermal Power Optimization" has been placed in the NRC's Public Document Room and added to the ADAMS Public Electronic Reading Room (ADAMS Accession No. ML13043A655).

Also included in February 7, 2013, letter were two affidavits submitted as Enclosure 12, dated June 13, 2012, and December 13, 2012, respectively. They were both executed by Ernest Hauser, Director of Sales of Caldon Ultrasonics Technology Center on behalf of Cameron International (formerly Caldon), requesting that the information contained in the following documents be withheld from public disclosure pursuant to 10 CFR 2.390:

Caldon Ultrasonics Engineering Report ER-781, Revision 2, "Bounding Uncertainty Analysis for Thermal Power Determination at Fermi Unit 2 Using the LEFM CheckPlus C System," dated August 2012 (Enclosure 10).

Caldon Ultrasonics Engineering Report ER-818, Revision 0, "Meter Factory Calculation and Accuracy Assessment for Fermi Unit 2," dated March 2010 (Enclosure 11).

Although these affidavits did not provide the specific reason for the information to be considered exempt from mandatory public disclosure, both documents are proprietary in their entirety and there are no nonproprietary versions of these two documents. These affidavits were later revised in the June 7, 2013, submittal.

2. Letter Dated June 7, 2013

In a letter dated June 7, 2013 (ADAMS Accession No. ML13161A080), DTE submitted as Enclosure 2, two revised affidavits dated May 30, 2013, executed by Ernest Hauser, Director of Sales of Caldon Ultrasonics Technology Center on behalf of Cameron International (formerly Caldon), requesting that the information contained in the following document be withheld from public disclosure pursuant to 10 CFR 2.390:

Caldon Ultrasonics Engineering Report ER-781, Revision 2, "Bounding Uncertainty Analysis for Thermal Power Determination at Fermi Unit 2 Using the LEFM CheckPlus C System," dated August 2012.

Caldon Ultrasonics Engineering Report ER-818, Revision 0, "Meter Factory Calculation and Accuracy Assessment for Fermi Unit 2," dated March 2010.

The May 30, 2013, affidavits stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any of Cameron's competitors without license from Cameron 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, and assurance of quality, or licensing a similar product.

In addition, DTE submitted a revised affidavit dated May 13, 2013, executed by Neil Wilmshurst, Vice President and Chief Nuclear Officer of the Electric Power Research Institute, Inc. (EPRI), requesting that the information contained in the following document be withheld from public disclosure pursuant to 10 CFR 2.390:

NEDC-33578P, "Safety Analysis Report for Fermi Generating Station UNIT 2 Thermal Power Optimization," Revision 0, dated January 2013.

The May 13, 2013, affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (c) EPRI made a substantial economic investment to develop the Proprietary Information and, by prohibiting public disclosure, EPRI derives an economic benefit in the form of licensing royalties and other additional fees from the confidential nature of the Proprietary Information. If the Proprietary Information were publicly available to consultants and/or other businesses providing services in the electric and/or nuclear power industry, they would be able to use the Proprietary Information for their own commercial benefit and profit without expending the substantial economic resources required of EPRI to develop the Proprietary Information.

3. Letter Dated July 15, 2013

In a letter dated July 15, 2013 (ADAMS Accession No. ML13197A121), DTE submitted as Enclosure 3, an affidavit dated June 24, 2013, executed by James F. Harrison, Vice President, Fuel Licensing, Regulatory Affairs at GE-Hitachi Nuclear Energy Americas LLC (GEH), requesting that information contained in the following document be withheld from public disclosure pursuant to 10 CFR 2.390:

Enclosure 1 of GEH letter, GEH-FERMI-AEP-203, "GEH Responses to Fermi 2 TPO RAIs," dated June 25, 2013 (Enclosure 2).

The June 24, 2013, affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

(4)a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GEH's competitors without license from GEH constitutes a competitive economic advantage over other companies;

(4)b. Information that, if used 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 of a similar product.

The nonproprietary version of the above document has been included as Enclosure 4 of the July 15, 2013, submittal.

4. Letter Dated September 27, 2013

In a letter dated September 27, 2013 (ADAMS Accession No. ML13273A464), DTE submitted as Enclosure 3, an affidavit dated September 13, 2013, executed by Peter M. Yandow, Vice President, Nuclear Plant Projects/Services Licensing, Regulatory Affairs of GE-Hitachi Nuclear Energy Americas LLC (GEH) for the following document. This document was revised to be consistent with more conservative Pressure and Temperature (P/T) curves that utilize fluence values based on exposure periods of 24 and 32 effective full power years (EFPYs):

NEDC-33578P, "Safety Analysis Report for Fermi Generating Station Unit 2 Thermal Power Optimization, Revision 2," dated September 2013.

The September 13, 2013, affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

(4)a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GEH's competitors without license from GEH constitutes a competitive economic advantage over other companies;

(4)b. Information that, if used 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 of a similar product.

Enclosure 4 of the September 27, 2013, submittal was provided as a nonproprietary version of Enclosure 2, and was released to the public.

The September 27, 2013, submittal also included an affidavit dated September 5, 2013, executed by Neil Wilmshurst Vice President and Chief Nuclear Officer of the Electric Power Research Institute, Inc. (EPRI):

The September 5, 2013, affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

(c) EPRI made a substantial economic investment to develop the Proprietary Information and, by prohibiting public disclosure, EPRI derives an economic benefit in the form of licensing royalties and other additional fees from the confidential nature of the Proprietary Information. If the Proprietary Information were publicly available to consultants and/or other businesses providing services in the electric and/or nuclear

power industry, they would be able to use the Proprietary Information for their own commercial benefit and profit without expending the substantial economic resources required of EPRI to develop the Proprietary Information.

We have reviewed your application and the corresponding affidavits in accordance with the requirements of 10 CFR 2.390 and, on the basis of its statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the documents identified above (NEDC-33578P, Revision 0; ER-781, Revision 2; ER-818, Revision 0; and Enclosure 1 of GEH letter GEH-FERMI-AEP-203) marked as proprietary, 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 documents. 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.

J. Plona

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If you have any questions regarding this matter, I may be reached at 301-415-4037.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Wengert". The signature is written in a cursive style with a large, stylized initial 'T'.

Thomas Wengert, Senior Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-341

cc: See next page

Additional Distribution via Listserv

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J. Plona

- 6 -

If you have any questions regarding this matter, I may be reached at 301-415-4037.

Sincerely,

/RA/

Thomas Wengert, Senior Project Manager
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Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

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