

September 11, 2013

Mr. Christopher M. Fallon, Vice President  
Nuclear Development  
Duke Energy  
EC12L/526 South Church Street  
Charlotte, NC 28202

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC  
DISCLOSURE IN RESPONSE TO TRANSMITTAL OF APP-SFS-M3R-003,  
"RESPONSE TO NRC ORDERS EA-12-051 AND EA-12-063, AND  
BACKGROUND INFORMATION FOR FUTURE LICENSEES ON AP1000  
SPENT FUEL POOL INSTRUMENTATION"

Dear Mr. Fallon:

By letter dated January 18, 2013, Progress Energy Florida submitted an affidavit dated October 19, 2012, executed by James A. Gresham, Westinghouse Electric Company (Westinghouse) which requested that the 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:

APP-SFS-M3R-003, "Response to NRC orders EA-12-051 and EA-12-063, and  
Background Information for Future Licensees on AP1000 Spent Fuel Pool  
Instrumentation"

A non-proprietary copy of the enclosure has been placed in the U.S. Nuclear Regulatory Commission's (NRC) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room Accession No. ML13023A265.

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

- (a) The information sought to be withheld from public disclosure is owned by Westinghouse and has been held in confidence by Westinghouse;
- (b) The information sought to be protected is not available to the public to the best of your knowledge and belief; and
- (c) The information is of the type that would customarily be held in confidence by Westinghouse. Public disclosure of this information is likely to cause harm to Westinghouse because its release might result in the loss of an existing or potential competitive advantage.

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

If you have any questions regarding this matter, I may be reached at 301-415-1035.

Sincerely,

*/RA/*

Donald Habib, Project Manager  
Licensing Branch 4  
Division of New Reactor Licensing  
Office of New Reactors

Docket No.: 52-029  
52-030

cc: See next page

C. Fallon

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Docket No.: 52-029  
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COL - Progress Energy - Levy County Mailing List

(Revised 08/29/2013)

cc:

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## COL - Progress Energy - Levy County Mailing List

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