

ATTACHMENT 1

AFFIDAVIT REQUESTING WITHOLDING OF ATTACHMENTS 2, 3, 4, 5, 6, AND 7

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**BWR Owners’ Group (BWROG)
AFFIDAVIT**

I, **Lesa P. Hill**, state as follows:

- 1) As the elected Chair of the BWR Owners’ Group (BWROG), I have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding. This action is taken on behalf of the Utility Members that financially participated (reference table below) in development (hereinafter referred to as “BWROG”):

BWROG Utility Members	
Constellation Energy Nuclear Group – Nine Mile Point	Chubu Electric Power Company
Detroit Edison Company – Fermi	Chugoku Electric Power Company
Energy Northwest – Columbia	Comisión Federal de Electricidad
Entergy Nuclear Northeast – FitzPatrick	Hokuriku Electric Power Company
Entergy Nuclear Northeast – Pilgrim	Iberdrola Generacion, S.A.
Entergy Operations, Inc – River Bend/Grand Gulf	Japan Atomic Power Company
Exelon/AmerGen Energy (Clinton)	J-Power (Electric Power Development Co.)
Exelon Nuclear (Dresden/Quad Cities/LaSalle)	Kernkraftwerk Leibstadt
Exelon/AmerGen Energy (Oyster Creek)	South Texas Project
Exelon Nuclear (Limerick/Peach Bottom)	Taiwan Power Company
FirstEnergy Corporation – Perry	Tohoku Electric Power Company
Nebraska Public Power District – Cooper	Tokyo Electric Power Company
NextERA Energy – Duane Arnold	
PPL Susquehanna LLC – Susquehanna	
PSEG Nuclear – Hope Creek	
Progress Energy – Brunswick	
Southern Nuclear Operating Company – Hatch	
Tennessee Valley Authority – Browns Ferry	
Xcel Energy – Monticello	

- 2) The information sought to be withheld is contained in BWR Owners’ Group (BWROG) Reports:
 - BWROG-TP-14-001, Task 1 - CFD Report and Combined NPSHr Uncertainty for Browns Ferry/ Peach Bottom CVIC RHR Pumps
 - BWROG-TP-13-008, Task 2 - Equation for Pump Speed Correction (CVIC Pump)
 - BWROG-TP-13-009, Task 3 – Pump Operation at Reduced NPSHa (CVIC Pump)
 - BWROG-TP-13-021, Task 4 – Operation in Maximum Erosion Rate Zone (CVIC Pump)
 - BWROG-TP-13-011, Task 5 – Effects of Non-Condensable Gases on Seals (CVIC Pump)
 - BWROG-TP-13-010, Task 6 – NPSHr Test Instrument Accuracy Effect on the Published Results (CVIC Pump)

The proprietary information in said documents is identified by [[dotted underline inside double square brackets{3}]]. Figures and other large objects are identified with

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double square brackets before and after the object. In each case, the superscript notation {3} refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.

- 3) In making this application for withholding of proprietary information of which it is the owner or licensee, BWROG relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4), and 2.390(a)(4) for "trade secrets" (Exemption 4). The material for which exemption from disclosure is here sought also qualify under the narrower definition of "trade secret", within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, *Critical Mass Energy Project v. Nuclear Regulatory Commission*, 975F2d871 (DC Cir. 1992), and *Public Citizen Health Research Group v. FDA*, 704F2d1280 (DC Cir. 1983).
- 4) Some examples of categories of information, which fit into the definition of proprietary information, are:
 - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by BWROG's competitors without license from BWROG constitutes a competitive economic advantage over other companies;
 - b. Information which, if used 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 of a similar product;
 - c. Information, which reveals aspects of past, present, or future BWROG customer funded development plans and programs, resulting in potential products to BWROG;
 - d. Information, which discloses patentable subject matter for which it may be desirable to obtain patent protection. The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b. above.
- 5) To address 10 CFR 2.390(b)(4), the information sought to be withheld is being transmitted to NRC in confidence. The information is of a sort customarily held in confidence by BWROG, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by BWROG, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties, including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following

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- 6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or subject to the terms under which it was licensed to BWROG. Access to such documents within BWROG is limited on a "need to know" basis.
- 7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist, or other equivalent authority for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside BWROG are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.
- 8) The information identified in paragraph (2), above, is classified as proprietary because it contains detailed results of analytical models, methods and processes, including computer codes, which BWROG has developed, and applied to perform licensing and design evaluations for BWR plants.

The development of the evaluation process along with the interpretation and application of the analytical results is derived from the extensive experience database that constitutes a major BWROG asset.

- 9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to BWROG's competitive position and foreclose or reduce the availability of profit making opportunities. The information is part of BWROG's comprehensive BWR safety and technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical and NRC review costs comprise a substantial investment of time and money by BWROG.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

BWROG's competitive advantage will be lost if its competitors are able to use the results of the BWROG experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to BWROG would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive BWROG of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

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I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief. Executed on this 12th day of March 2014.



Lesla P. Hill
Chairman
BWR Owners' Group