

April 11, 2014

Mr. J. Douglas McCuiston, Chief Operating Officer
X-Energy, LLC
7701 Greenbelt Road
Suite 320
Greenbelt, MD 20770

SUBJECT: WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE
FOR THE RESPONSE TO RIS 2013-18 ASSOCIATED WITH X-ENERGY'S
XE-100 REACTOR DESIGN

Dear Mr. McCuiston:

By letter dated March 28, 2014, X-energy, LLC, submitted a letter with affidavit (Agencywide Documents Access and Management System (ADAMS) Accession No. ML14094A023) in which you requested that information contained in the response to NRC Regulatory Issue Summary (RIS) 2013-18, "Licensing Submittal Information and Design Development Activities for Small Modular Reactor Designs," be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390.

Proprietary copies of the RIS response (ADAMS Accession No. ML14094A201, Enclosure 1) have been placed in the U.S. Nuclear Regulatory Commission (NRC) Public Document Room and added to the NRC Library in ADAMS.

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

- 1) The information sought to be withheld from public disclosure is owned and has been held in confidence by X-energy. The information sought to be withheld from public disclosure in Enclosure 1 is owned by X-energy, its affiliates or third parties to whom X-energy has an obligation to maintain its confidentiality. This information was prepared with the explicit understanding that the information itself would be treated as proprietary and confidential and has been held in confidence by X-energy.
- 2) The information sought to be protected in the RIS response is not available to the public to the best of your knowledge and belief.
- 3) The information contained in the RIS response is of the type that is customarily held in confidence by X-energy, and there is a rational basis for doing so. The information X-energy is requesting to be withheld from public disclosure includes commercial information related to on-going and planned activities associated with the Xe-100 TM high temperature gas pebble bed reactor design. X-energy limits access to this privileged information to maintain confidentiality.

- 4) The RIS response contains information about the planned activities of X-energy related to the creation and submittal of licensing activities, forecast design development timeframes, and commercial strategy of the Xe-100 TM advanced reactor. Public disclosure of the information contained in Enclosure 1 would create substantial harm to X-energy because it would reveal valuable business information regarding X-energy's competitive expectations, assumptions, current position and strategy. Its use by a competitor could substantially improve their competitive position in the design, manufacture, licensing, construction and operation of a similar product.
- 5) The proprietary information contained in Enclosure 1 is transmitted to the NRC in confidence and under the provisions of 10 CFR 2.390; it is to be received in confidence by the NRC. The information is properly marked.

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

Therefore, 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 301-415-0109.

Sincerely,

/RA/

Donald E. Carlson, Senior Project Manager
Small Modular Reactor Licensing Branch 2
Division of Advanced Reactors and Rulemaking
Office of New Reactors

cc: Distribution via Listserv

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 Office of New Reactors

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OFFICE	PM:NRO/DARR/SMRLB2	BC:NRO/DARR/SMRLB2
NAME	DCarlson	ABradford
DATE	04/11/14	04/11/14

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