



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

December 2, 2015

Mr. Mano Nazar
President and Chief Nuclear Officer
Nuclear Division
NextEra Energy
P.O. Box 14000
Juno Beach, FL 33408-0420

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR THE ST. LUCIE PLANT, UNIT NO. 2 (CAC NOS. MF5494 AND MF5495)

Dear Mr. Nazar:

By letter dated October 2, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15279A226), Florida Power & Light Company (the licensee) submitted the following two affidavits:

- (1) Affidavit dated September 25, 2015, executed by Nathan E. Hottle, on behalf of AREVA Inc. (AREVA); and
- (2) Affidavit dated October 1, 2015, executed by James A. Gresham, on behalf of Westinghouse Electric Company LLC (Westinghouse).

Both affidavits requested that information contained in the following document be withheld from public disclosure, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390:

ANP-3440P, Revision 1, "St. Lucie Unit 2 Fuel Transition: Response to NRC Questions SRXB-RAI-1 and SNPB RAI-2 thru SNPB RAI-20," dated September 2015.

The affidavits, and a non-proprietary version of the report, are publicly available under ADAMS Accession Nos. ML15279A226 and ML15279A227, respectively.

U.S. Nuclear Regulatory Commission (NRC) Nuclear Reactor Regulation Office Instruction LIC-204, "Handling Requests to Withhold Proprietary Information from Public Disclosure," states, "The affidavit must be notarized or signed under oath and affirmation." The NRC staff informed the licensee that the Westinghouse affidavit was not notarized or signed under oath and affirmation and, therefore, did not meet the criteria for being withheld from public disclosure. The licensee indicated that it would be revised and resubmitted.

By letter dated November 3, 2015 (ADAMS Accession No. ML15322A134), the licensee submitted a revision of the Westinghouse affidavit, dated October 27, 2015, and executed by James A. Gresham, on behalf of Westinghouse, requesting that information contained in the document indicated above (ANP-3440P) be withheld from public disclosure, pursuant to 10 CFR Section 2.390. In addition, the licensee resubmitted the Westinghouse proprietary information originally provided in the October 2, 2015, letter (with proprietary superscripts (a) – (f)), and stated, "Attachment B provides the Westinghouse proprietary information with the applicable [a] thru [f] designations as stated in the [October 27, 2015] Westinghouse affidavit."

The licensee also indicated in the November 3, 2015, letter that the rest of the information in the October 2, 2015, letter, which includes the proprietary and non-proprietary versions of ANP-3440P, as well as the September 25, 2015, affidavit from AREVA, was correct and did not require a revision.

The September 25, 2015, affidavit stated that the submitted information should be considered exempt from mandatory public disclosure, pursuant to 10 CFR 2.390(a)(4), for the following reasons:

- 6.(b) Use of the information by a competitor would permit the competitor to significantly reduce its expenditures, in time or resources, to design, produce, or market a similar product or service.
- 6.(c) The information includes test data or analytical techniques concerning a process, methodology, or component, the application of which results in a competitive advantage for AREVA.
- 6.(d) The information reveals certain distinguishing aspects of a process, methodology, or component, the exclusive use of which provides a competitive advantage for AREVA in product optimization or marketability.
- 6.(e) The information is vital to a competitive advantage held by AREVA, would be helpful to competitors to AREVA, and would likely cause substantial harm to the competitive position of AREVA.

The October 27, 2015, affidavit stated that the proprietary information submitted is contained within brackets and is marked with superscripts (a) through (f), as applicable. As a result, and as verified by the licensee in its November 3, 2015, letter, the affidavit and proprietary markings indicate that the submitted information should be considered exempt from mandatory public disclosure, pursuant to 10 CFR 2.390(a)(4), for the following reasons:

- 4.(ii)(a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any of Westinghouse's competitors without license from Westinghouse constitutes a competitive economic advantage over other companies.
- 4.(ii)(c) Its use 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 a similar product.

The October 27, 2015, affidavit also stated the following:

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Westinghouse because it would enhance the ability of competitors to provide similar technical evaluation justifications and licensing defense services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

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 affidavits, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the information marked as proprietary that was included with the October 2, 2015, letter 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.

Please direct any inquiries to Robert L. Gladney at 301-415-1022 or Robert.Gladney@nrc.gov.

Sincerely,

A handwritten signature in black ink that reads "Robert L. Gladney" followed by a stylized "for" or "for" mark.

Farideh E. Saba, Senior Project Manager
Plant Licensing Branch II-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-389

cc: Mr. Nathan E. Hottle
Manager, Product Licensing
AREVA Inc.
P.O. Box 10935
Lynchburg, VA 24506-0935

Mr. James A. Gresham
Manager, Regulatory Compliance
Westinghouse Electric Company
1000 Westinghouse Drive
Building 3, Suite 310
Cranberry Township, PA 16066

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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 affidavits, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the information marked as proprietary that was included with the October 2, 2015, letter 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.

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Please direct any inquiries to Robert L. Gladney at 301-415-1022 or Robert.Gladney@nrc.gov.

Sincerely,
/RA RGLadney for/
 Farideh E. Saba, Senior Project Manager
 Plant Licensing Branch II-2
 Division of Operating Reactor Licensing
 Office of Nuclear Reactor Regulation

Docket No. 50-389

cc: Mr. Nathan E. Hottle
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 Lynchburg, VA 24506-0935

Mr. James A. Gresham
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ADAMS Accession No.: ML15310A405

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DATE	11/19/2015	11/19/2015	11/23/2015	11/23/2015	12/01/2015	12/02/2015

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