

Docket File



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

September 3, 1991

Docket Nos. 50-237
and 50-249

Withheld 10/9/3/91

Mr. Thomas J. Kovach
Nuclear Licensing Manager
Commonwealth Edison Company-Suite 300
OPUS West III
1400 OPUS Place
Downers Grove, Illinois 60515

Dear Mr. Kovach:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

By your letter dated May 3, 1991, and Advanced Nuclear Fuel Corporation's (ANF) affidavit dated April 24, 1991, you submitted Topical Report ANF-89-80(P) entitled, "Dresden Unit 2 and Unit 3 8x8 Extended Burnup Design Report" and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790.

Advanced Nuclear Fuel Corporation stated that the information should be considered exempt from mandatory public disclosure for the following reasons:

The Document contains information of a proprietary and confidential nature and is of the type customarily held in confidence by ANF and not made available to the public....

The Document contains information which is vital to a competitive advantage of ANF and would be helpful to competitors of ANF when competing with ANF.

The information contained in the Document is considered to be proprietary by ANF because it reveals certain distinguishing aspects of ANF design methodology which secure competitive advantage to ANF for fuel design optimization and marketability, and includes information utilized by ANF in its business which affords ANF an opportunity to obtain a competitive advantage over its competitors who do not or may not know or use the information contained in the Document.

The disclosure of the proprietary information contained in the Document to a competitor would permit the competitor to reduce its expenditure of money and manpower and to improve its competitive position by giving it valuable insights into ANF design methodology and would result in substantial harm to the competitive position of ANF.

The Document contains proprietary information which is held in confidence by ANF and is not available in public sources.

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In accordance with ANF's policies governing the protection and control of information, proprietary information contained in the Document has been made available, on a limited basis, to others outside ANF only as required and under suitable agreement providing for nondisclosure and limited use of the information.

Information in this Document provides insight into ANF design methodology developed by ANF. ANF has invested significant resources in developing the methodology as well as the strategy for this application. Assuming a competitor had available the same background data and incentives as ANF, the competitor might, at a minimum, develop the information for the same expenditure of manpower and money as ANF.

We have reviewed your submittal and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of Advanced Nuclear Fuel Corporation's statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, we have determined that Topical Report ANF-89-80(P) entitled "Dresden Unit 2 and Unit 3 8x8 Extended Burnup Design Report" marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(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 document. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, insure 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 should also 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 needs additional information from you or makes a determination adverse to the above, you will be notified in advance of any public disclosure.

DISTRIBUTION

Docket File P1-37 M. Siemien, OGC
PDI-2 r/f Plant File
B. Boger W. Shafer RIII
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B. Siegel NRC & LPDR

Sincerely,
Original signed by: L. Olshan for
Byron L. Siegel, Project Manager
Project Directorate III-2
Division of Reactor Projects - III/IV/V
Office of Nuclear Reactor Regulation

cc: See next page

OFC	: LA: PDI-2	: PM: PDI-2	: D: PDI-2	: OGC	:
NAME	: CMOORE	: BSIEGEL: Jar	: RBARRETT	: MSIEMIEN	: MPS
DATE	: 8/24/91	: 8/24/91	: 9/13/91	: 8/28/91	:

Mr. Thomas J. Kovach
Commonwealth Edison Company

Dresden Nuclear Power Station
Unit Nos. 2 and 3

cc:

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