



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

June 14, 2018

Mr. Harlan Bowers, President
X Energy, LLC
7701 Greenbelt Road
Suite 320
Greenbelt, MD 20770

SUBJECT: RESPONSE TO REQUEST FOR WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE FOR X ENERGY RESPONSE TO REGULATORY ISSUE SUMMARY 2017-08, "PROCESS FOR SCHEDULING AND ALLOCATING RESOURCES FOR FISCAL YEARS 2020 THROUGH 2022 FOR THE REVIEW OF NEW LICENSING APPLICATIONS FOR LIGHT-WATER REACTORS AND NON-LIGHT-WATER REACTORS"

Dear Mr. Bowers:

By letter dated January 16, 2018, X Energy, LLC ("X-energy") submitted an affidavit to the U.S. Nuclear Regulatory Commission (NRC) that is available through the NRC Agencywide Documents Access and Management System (ADAMS) Accession No. ML18019A158 requesting the information contained in the following documents be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

X Energy, LLC ("X-energy") Response to: NRC Regulatory Issue Summary (RIS) 2017-08, "Processing for Scheduling and Allocating Resources for Fiscal Years 2020 through 2022 for the Review of New Licensing Applications for Light-Water Reactors and Non-Light Water Reactors", (Proprietary – Non-Publicly Available in Entirety) (ADAMS Accession No. ML18019A158).

The affidavit stated the submitted information should be considered exempt from mandatory public disclosure because it contains:

- a. The information sought to be withheld from public disclosure 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.
- b. The information sought to be protected is not available to the public to the best of X-energy's knowledge and belief.

- c. The information 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 X-energy's Xe-100 high temperature gas pebble bed reactor design and the X-energy TRISO-X fuel program. X-energy limits access to this privileged information to maintain confidentiality.
- d. The information sought to be withheld contains information about the planned activities of X-energy related to the creation and submittal of licensing activities, forecast design development timeframes, fuel fabrication facility deployment plans, and commercial strategy of X-energy's Xe-100 advanced reactor. Public disclosure of this information 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.
- e. The Proprietary Information sought to be withheld was 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 the affidavit 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 versions 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 will not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, NRC may send copies of the information to our consultants working in this area. We will 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, X-energy should promptly notify the NRC.

X-energy 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 X-energy 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, please contact me at (301) 415-2875 or via email at Amy.Cubbage@nrc.gov.

Sincerely,

/RA/

Amy E. Cubbage, Senior Project Manager
Advanced Reactor and Policy Branch
Division of Safety Systems, Risk Assessment and
Advanced Reactors
Office of New Reactors

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NRO-002

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NAME	ACubbage	JSegala
DATE	06/12/2018	06/14/2018

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