



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

October 25, 2019

Peter Hastings
Vice President, Regulatory Affairs and Quality
Kairos Power LLC
707 W Tower Ave
Alameda, CA 94501

SUBJECT: WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC
DISCLOSURE –PRESENTATION MATERIALS FOR KAIROS POWER PRE-
SUBMITTAL MEETING ON RISK-INFORMED PERFORMANCE- BASED
LICENSING BASIS DEVELOPMENT TOPICAL REPORT

Dear Mr. Hastings:

On April 4, 2019, Kairos Power, LLC (Kairos), submitted an affidavit to the U.S. Nuclear Regulatory Commission (NRC), available through the NRC Agencywide Documents Access and Management System (ADAMS) at Accession No. ML19094B872, requesting that the agency withhold the information contained in the following document from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 2.390, "Public Inspections, Exemptions, Requests for Withholding":

"Presentation Materials for Pre-Submittal Meeting on Risk-Informed
Performance-Based Licensing Basis Development Topical Report"

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

- a. The information sought to be withheld from public disclosure is owned and has been held in confidence by Kairos.
- b. The information is of a type customarily held in confidence by Kairos and not customarily disclosed to the public. Kairos has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitute Kairos policy and provide the rational basis required.
- c. The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR 2.390, it is to be received in confidence by the Commission.
- d. This information is not readily available in public sources.
- e. Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Kairos, because it would enhance the ability of competitors to provide similar products and services by reducing their expenditure of resources using similar project methods, equipment, testing approach, contractors, or licensing approaches. This information is the result of considerable expense to Kairos and has

great value in that it will assist Kairos in providing products and services to new, expanding markets not currently served by the company.

- f. The information could reveal or could be used to infer price information, cost information, budget levels, or commercial strategies of Kairos.
- g. Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving Kairos of a competitive advantage.
- h. Unrestricted disclosure would jeopardize the position of Kairos in the world market, and thereby give a market advantage to the competition in those countries.

The NRC staff has reviewed the affidavit and the subject material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, has determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, NRC staff agrees to withhold this document in its entirety from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

While the NRC staff has agreed to broadly withhold and protect the submitted information based on its preliminary nature and use to support pre-application interactions, the NRC staff is not acknowledging that all information withheld is proprietary. The NRC staff is only acknowledging that preparation of more specific redactions within a public version of the document would be of no value to the public due to the extent of the proprietary information included. When requesting the withholding of information in future submittals, Kairos should discuss expectations for more specific redactions and preparation of public versions of submittals with the NRC staff. Kairos should also consider the requirements in 10 CFR 2.390 and guidance in LIC-204, "Handling Requests to Withhold Proprietary Information from Public Disclosure" (ADAMS Accession No. ML062200530) when preparing documents containing proprietary information.

Withholding the submittals from public inspection will not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, the NRC may send copies of the information to its consultants working in this area. The NRC 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, Kairos should promptly notify the NRC. Kairos 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 Kairos information.

In all review situations, the NRC will follow applicable laws, regulations, and policies in conducting its review, including the NRC's policies on notifying the owner of information in advance of any public disclosure.

If you have any questions about this matter, please contact me at (301) 415-8189 or via email at luisette.candelario@nrc.gov.

Sincerely,

/RA/

Luisette Candelario, Project Manager
Advanced Reactor Licensing Branch
Division of Advanced Reactors and
Non-Power Production and Utilization Facilities
Office of Nuclear Reactor Regulation

Project No. 99902069

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