

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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Before the Atomic Safety and Licensing Board

In the Matter of )  
LONG ISLAND LIGHTING COMPANY ) Docket No. 50-322 (OL)  
(Shorham Nuclear Power Station, )  
Unit 1) )

REQUEST OF STONE AND WEBSTER  
ENGINEERING CORPORATION  
FOR CONFIDENTIAL TREATMENT

Stone and Webster Engineering Corporation (SWEC), pursuant to 10 CFR § 2.790(b)(1), hereby requests that certain confidential commercial information that is identified in the accompanying affidavit of Richard B. Kelly, be withheld from public disclosure. Suffolk County has indicated its desire to use this information in the course of this proceeding in a way which, if not protected, would subject it to public disclosure. Because of the confidential nature of this information, SWEC requests that it not be subject to public disclosure.

The information sought to be protected is proprietary information related to SWEC's Quality Assurance activities. It is owned by SWEC; it has been held in confidence by SWEC; it is not available from any public source; and it has not been made available to third parties, except in confidence. It is the type of information customarily held in confidence by SWEC and

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not customarily disclosed to the public. (See affidavit at ¶¶ 4(a) and 4(b).)

As the accompanying affidavit of Richard B. Kelly shows, the information satisfies the criteria for confidential treatment outlined in 10 CFR § 2.790(b)(4), and also would be exempt from disclosure as confidential commercial information pursuant to Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4). One of the established tests for confidentiality under both the Commission's regulations and under Exemption 4 is whether public disclosure of the information is likely to cause substantial harm to the competitive position of the owner of the information. National Parks and Conservation Ass'n v. Morton, 498 F.2d 765, 770 (D.C. Cir. 1974). That this is likely to occur is made plain by Mr. Kelly's affidavit.

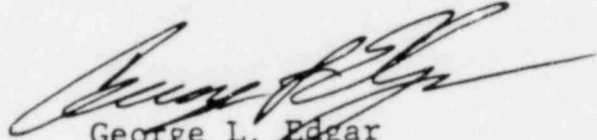
There can be no dispute that there is actual competition among entities such as SWEC to provide engineering, design, procurement, and construction site functions for nuclear power plants. SWEC's Quality Assurance services and management of those services are an indispensable aspect of the engineering services provided for nuclear power plants by SWEC. See 10 CFR Part 50, Appendix B. If disclosed, this information about SWEC's Quality Assurance program would provide competitors, who furnish similar services, with valuable insights into SWEC's operations and would reveal areas of corporate emphasis and strategy which would not otherwise be known. This information

could be used by competitors to gain an unfair advantage over SWEC in the marketplace. Such considerations have been held sufficient to protect proprietary information from disclosure. National Parks and Conservation Ass'n v. Kleppe, 547 F.2d 673, 684 (D.C. Cir. 1976); Burroughs Corp. v. Brown, 501 F. Supp. 375 (E.D. Va. 1980), rev'd on other grounds, General Motors Corp. v. Marshall, 654 F.2d 294 (4th Cir. 1981).

In addition, SWEC has spent many years and has expended a considerable sum of money in developing its quality assurance program. The information developed is the result of the application and refinement of comprehensive management systems for many years, and would be extremely valuable to any entity seeking to provide similar services. If disclosed, SWEC's competitors would be able to duplicate much of SWEC's expertise without incurring the substantial expenditures of time and funds made by SWEC. This information could not otherwise be obtainable by SWEC's competitors except at considerable cost. It therefore has substantial commercial value which should be protected. Worthington Compressors, Inc. v. Costle, 662 F.2d 45, 51 (D.C. Cir. 1981).

Therefore, for the foregoing reasons and for those set forth in the accompanying affidavit of Richard B. Kelly, SWEC requests confidential treatment of the identified information.

Respectfully submitted,



George L. Edgar  
Attorney for  
Stone and Webster Engineering  
Corporation

May 27, 1982