



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

PDR 50-329A

December 7, 1978

Docket Nos. 50-329  
50-330

Mr. S. H. Howell  
Vice President  
Consumers Power Company  
212 West Michigan Avenue  
Jackson, Michigan 49201

Dear Mr. Howell:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

By your application and affidavit dated June 29, and June 9, respectively, you submitted responses to certain NRC requests for additional information on Midland Plant, Units 1 and 2, as listed below:

<u>Staff Request</u>	<u>Subject</u>
231.10	Design of Absorber Material
231.13	Conservatism of Minimum Unirradiated Strength Values
231.14	Fuel Surveillance
231.16	Fuel Rod Stresses
231.22	Dimensional/Spring Constants for Upper and Lower Plenum Springs

You requested that these responses be withheld from public disclosure pursuant to Section 2.790 of 10 CFR Part 2.

The criteria used by your nuclear steam supply system vendor, Babcock and Wilcox, to determine whether the submitted materials are proprietary are listed in Table I. A cross-reference of the specific claims for each response is provided by Table II.

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Our findings regarding the proprietary claims for the material submitted are as follows:

1. Disposition for Requests 231.14, 231.16, and 231.22

We have reviewed your application and material provided in the responses to our requests 231.14, 231.16, and 231.22, and pursuant to 10 CFR 2.790, we have determined that these three responses to our requests which are sought to be withheld contain confidential or proprietary commercial information.

We have also found at this time that the right of the public to be fully apprised as to the bases for and effects of the proposed action does not outweigh the demonstrated concern for protection of your competitive position. Accordingly, we have determined that the information should be withheld from public disclosure.

We, therefore, approve your request for withholding pursuant to Section 2.790 of 10 CFR Part 2 and are withholding your response to requests 231.14, 231.16, and 231.22.

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, assure that the consultants have signed the appropriate agreements for handling proprietary data.

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.

2. Disposition for Requests 231.10 and 231.13

Regarding your application and material provided in the responses to our requests 231.10 and 231.13, Section 2.790(b) (1) (ii) of 10 CFR Part 2 of the Commission's regulations requires that each supporting affidavit contain a full statement of the reasons on the basis of which it is claimed that the information should

Mr. S. H. Howell

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be withheld from public disclosure. The section further requires the statement to "address with specificity" the considerations listed in Section 2.790 (b) (4).

We have reviewed your affidavit to these paragraphs of the regulations and find it to be deficient in terms of demonstrating the applicability of the criteria listed in Table I to the material provided in the responses to our requests.

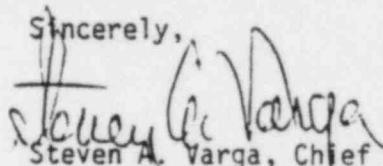
Accordingly, consideration should be given to supplementing the present record with additional factual information. If such action is taken, it is suggested that you furnish specific factual information for your application indicating:

- (a) how criteria c and d of Table I apply to the response to our request 231.10, and,
- (b) how criteria c and e of Table I apply to the response to our request 231.13.

In summary, we have determined that your affidavit is not in conformity with Section 2.790 (b) of the Commission's regulations inasmuch as it fails to address the considerations of paragraph (b) (4) with sufficient specificity to enable us to make the required determination under Section 2.790 (b). Consequently, we are unable to conclude at this time that the information referenced in the affidavit is proprietary.

In accordance with Section 2.790(c) of 10 CFR Part 2, the information sought to be withheld will be placed in the Commission's Public Document Room 30 days after the date of this letter unless you either seek to withdraw the information requested to be withheld or provide the Nuclear Regulatory Commission with an amended affidavit meeting the requirements of Section 2.790 (b) to 10 CFR Part 2.

Sincerely,



Steven A. Varga, Chief  
Light Water Reactors Branch 4  
Division of Project Management

ccs: Listed on next page

Enclosures: As stated

Consumers Power Company

ccs:

Michael I. Miller, Esq.  
Isham, Lincoln & Beale  
Suite 4200  
One First National Plaza  
Chicago, Illinois 60670

Judd L. Bacon, Esq.  
Consumers Power Company  
212 West Michigan Avenue  
Jackson, Michigan 49201

Mr. Paul A. Perry  
Secretary  
Consumers Power Company  
212 W. Michigan Avenue  
Jackson, Michigan 49201

Myron M. Cherry, Esq.  
One IBM Plaza  
Chicago, Illinois 60611

Mary Sinclair  
5711 Sumnerset Drive  
Midland, Michigan 48640

Frank J. Kelley, Esq.  
Attorney General  
State of Michigan Environmental  
Protection Division  
720 Law Building  
Lansing, Michigan 48913

Mr. Windell Marshall  
Route 10  
Midland, Michigan 48640

Table I

Criteria Used by B&W to Determine Whether Information is Proprietary

- a. Information reveals cost or price information, commercial strategies, production capabilities, or budget levels of Babcock & Wilcox, its customers or suppliers.
- b. The information reveals data or material concerning Babcock & Wilcox or customer funded research or development plans or programs of present or potential competitive advantage to Babcock & Wilcox.
- c. The use of the information by a competitor would decrease his expenditures, in time or resources, in designing, producing or marketing a similar product.
- d. The information consists of test data or other similar data concerning a process, method or component, the application of which results in a competitive advantage to Babcock & Wilcox.
- e. The information reveals special aspects of a process, method, component or the like, the exclusive use of which results in a competitive advantage to Babcock & Wilcox.
- f. The information contains ideas for which patent protection may be sought.

Table II

Proprietary Claim of Material Submitted

<u>Item</u>	<u>Question No.</u>	<u>Description of Material</u>	<u>Applicable Criteria*</u>
I	231.10	Expressions used to describe swelling, conductivity, thermal expansion, and gas release of absorber materials	c,d
II	231.13	Calculated values of clad strain for control components	c,e
III	231.16	Fuel rod stress evaluation	c,e
IV	231.14, Tables 2&3	Results of post-irradiation examination of Oconee-1 fuel assemblies	b,c,d
V	231.22	Dimensions and constants of the fuel rod springs	e

\*See Table I for criteria.

Table II

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