



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

PDR-016

July 19, 1982

Mr. Richard A. Udell  
Critical Mass Energy Project  
215 Pennsylvania Avenue, S.E.  
Washington, DC 20003

IN RESPONSE REFER  
TO FOIA-82-A-6  
(FOIA-82-210)

Dear Mr. Udell:

This is in response to your letter to me dated June 4, 1982, appealing Mr. J. M. Felton's letter of May 5, 1982, which denied your Freedom of Information Act request for the segregable portions of draft NUREG-0844, "Resolution of Unresolved Safety Issues A-3, A-4, and A-5 Regarding Steam Generator Tube Integrity."

Acting on your appeal, I have carefully reviewed the record in this case relevant to the withheld information and have determined for the following reasons that the document remains exempt from public disclosure pursuant to Exemption (5) of the Freedom of Information Act (5 U.S.C. 522(b)(5)) and 10 CFR 9.5(a)(5) of the Commission's regulations. Your appeal is, therefore, denied.

The NRC is in the process of developing generic requirements concerning steam generator tube degradation. These requirements will include the significant issues and recommendations developed as a result of the effort relative to the resolution of Unresolved Safety Issues A-3, A-4, and A-5 regarding steam generator tube integrity discussed in the draft NUREG-0844 and have been expanded to include current steam generator operating experience, including the R. E. Ginna event of January 25, 1982. As pointed out in Mr. Felton's letter dated May 5, 1982, draft NUREG-0844 has neither been reviewed nor approved by NRC management. At this time we expect the generic report will be available for public comment this fall.

In your letter of June 4, 1982, you call attention to the May 11, 1982 decision of the U.S. Court of Appeals for the District of Columbia Circuit in Playboy Enterprises, Inc. v. Department of Justice, et. al. for the principle that "factual summaries and segregable portions of factual information are not exempt from FOIA inquiries." While that may be the case for a final document such as that involved in Playboy Enterprises, we do not believe that it applies in this case where we are dealing with a draft document which has never been reviewed or approved by management.

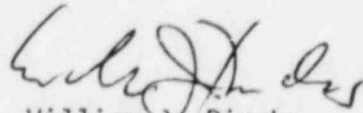
Mr. Richard A. Udell

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Finally, you request in your letter that if the NRC denies the draft NUREG-0844, that it make available any relevant studies. I am enclosing a list of references from the draft NUREG-0844. Copies of the studies referred to on the list should be available in the NRC's Public Document Room, 1717 H Street, N.W., Washington, DC. If you have any problems locating these documents, please contact Ms. Carol Ann Reed on 492-8133.

This is a final agency action. As set forth in the Freedom of Information Act (5 U.S.C. 552(a)(4)(B)), judicial review of this decision is available in a district court of the United States in either the district in which you reside, have your principal place of business, or in the District of Columbia.

Sincerely,



William J. Dircks  
Executive Director for Operations

Enclosure: As stated