MAY 16 1984

DCS MS-016

Docket No. 50-285

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Mr. W. C. Jones
Division Manager, Production
Operations
Omaha Public Power District
1623 Harney Street
Omaha, Nebraska 68102

Dear Mr. Jones:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

By your letters dated November 11 and 30, 1983 and February 24, 1984, as supplemented by your applications for withholding dated November 14, 1983 and February 27, 1984 and Combustion Engineering's affidavits dated November 8,1983 and February 23, 1984, you submitted document CEN-257(0)-P entitled "Statistical Combination of Uncertainties," Part 1, Part 2, and Part 3 (3 volumes) and document LIC-84-057, Attachment A entitled "Statistical Combination of Uncertainties Report, Attachment A, Proprietary Version." You requested that these documents be withheld from public disclosure pursuant to 10 CFR 2.790.

Combustion Engineering, Inc. stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

1. The information sought to be withheld from public disclosure are the methods of developing uncertainty distributions, limiting values of thermal hydraulic variables, and net uncertainties to be applied in the development of setpoints and technical specifications, which is owned and has been held in confidence by Combustion Engineering.

2. The information consists of test data or other similar data concerning a process, method or component, the application of which results in a substantial competitive advantage to Combustion Engineering.

3. The information is of a type customarily held in confidence by Combustion Engineering and not customarily disclosed to the public. Combustion Engineering 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 details of the aforementioned system were provided to the Nuclear Regulatory Commission via letter DP-537 from F.M. Stern to Frank Schroeder dated December 2, 1974. This system was applied in determining that the subject documents herein are proprietary.

4. The information is being transmitted to the Commission in confidence under the provisions of 10 CFR 2 790 with the understanding that it is to be received in confidence by the Commission.

5. The information, to the best of my knowledge and belief, is not available in public sources, and any disclosure to third parties has been made pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence.

6. Public disclosure of the information is likely to cause substantial harm to the competitive position of Combustion Engineering because:

   a. A similar product is manufactured and sold by major pressurized water reactor competitors of Combustion Engineering.

   b. Development of this information by C-E required thousands of manhours of effort and hundreds of thousands of dollars. To the best of my knowledge and belief a competitor would have to undergo similar expense in generating equivalent information.

   c. In order to acquire such information, a competitor would also require considerable time and inconvenience to develop methods related to uncertainty distributions and thermal hydraulic variables as applied to setpoints and technical specifications.

   d. The information required significant effort and expense to obtain the licensing approvals necessary for application of the information. Avoidance of this expense would decrease a competitor's cost in applying the information and marketing the product to which the information is applicable.

   e. The information consists of statistical methods used to combine uncertainites in the development of setpoints and technical specifications, the application of which provides a competitive economic advantage. The availability of such information to competitors would enable them to modify their product to better compete with Combustion Engineering, take marketing or other actions to improve their product's position or impair the position of Combustion Engineering's product, and avoid developing similar data and analyses in support of their processes, methods or apparatus.

f. In pricing Combustion Engineering's products and services, significant research, development, engineering, analytical, manufacturing, licensing, quality assurance and other costs and expenses must be included. The ability of Combustion Engineering's competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.

g. Use of the information by competitors in the international marketplace would increase their ability to market nuclear steam supply systems by reducing the costs associated with their technology development. In addition, disclosure would have an adverse economic impact on Combustion Engineering's potential for obtaining or maintaining foreign licensees.

We have reviewed your submittal and the material based on the requirements and criteria of 10 CFR 2.790 and on the District's and Combustion Engineering, Inc. statements, and have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

We have determined that the Combustion Engineering Report CEN-257(0)-P entitled "Statistical Combination of Uncertainties," Part 1, Part 2 and Part 3 (three volumes) and document LIC-84-057, Attachment A entitled "Statistical Combination of Uncertainties Report, Attachment A, Proprietary Version," should be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

We, therefore, approve your request for withholding pursuant to 10 CFR 2.790 and are withholding documents CEN-257(0)-P and LIC-84-057, Attachment A from public inspection as proprietary.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the document. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, insure 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, you should promptly notify the NRC. You should also understand that the NRC may have cause to review this determination in the future, such as if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC needs additional information from you or makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

Original signed by:

James R. Miller, Chief
Operating Reactors Branch #3
Division of Licensing

cc: See next page

ORB#3:DL	ORB#3:DL	ORB#3:DL	OELD	DSI:CPB
PKreutzer	ETourigny :dd	JRMiller		CBerlinger
5/2/84	4/2/84	4/3/84	4/ /84	~~4/ /84~~ 5/2/84

Per 5/9/84 memo, OELD concurs assuming changes made as wording. RL for

wording Changes were made 5/16

Omaha Public Power District

cc:

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