

Docket File



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

February 6, 1992

Docket No. 52-002

Mr. E. H. Kennedy Manager
Nuclear Systems Licensing
Combustion Engineering, Inc.
100 Prospect Hill Road
Hartford, Connecticut 06095

Dear Mr. Kennedy:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

By your application dated December 9, 1991, you submitted the Combustion Engineering (CE) Documents, "Functional Design Requirement for A Control Element Assembly Calculator," Combustion Engineering, Inc. Report CEN-304-P, Revision 02-P, May 1988, and "Functional Design Requirements for A Core Protection Calculator," Combustion Engineering, Inc. Report CEN-305-P, Revision 02-P, May 1988, and requested that they be withheld from public disclosure pursuant to 10 CFR 2.790.

Your affidavit dated December 10, 1991, was included in your application. You 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 is the functional design requirements for the digital control element assembly and core protection calculators, which are owned and have 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 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 (NRC) via letter DP-537 from F. M. Stern to Frank Schroeder dated December 2, 1974. This system was applied in determining that the subject document herein is proprietary.

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4. The information is being transmitted to the Commission in confidence under the provisions of 10 CFR Section 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 CE required hundreds of thousands of manhours and millions 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 the functional design requirements for the digital control element assembly and core protection calculators.
 - 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 the functional design requirements for the digital control element assembly and core protection calculator, 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 without information 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 application and the material in accordance with the requirements of 10 CFR 2.790 and on the basis of Combustion Engineering's statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(1) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

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, 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, you should promptly notify the NRC. You should also understand that the NRC may have cause to review the determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

Original Signed By
 Thomas V. Wambach, Project Manager
 Standardization Project Directorate
 Division of Advanced Reactors
 and Special Projects
 Office of Nuclear Reactor Regulation

cc: See next page

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DATE:	01/31/92	01/03/92	01/27/92	01/14/92

OFFICIAL DOCUMENT NAME: CE1209.BP

Combustion Engineering, Inc.

Docket No. 52-002

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