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

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June 30, 1992

G. Paul Bollwerk, III
Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. James H. Carpenter
Administrative Judge
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Peter A. Morris
Administrative Judge
10825 South Glen Road
Potomac, Maryland 20854

In the Matter of
ALABAMA POWER COMPANY
(Joseph M. Farley Nuclear Plant, Units 1 and 2)
Docket Nos.: 50-348-CivP; 50-364-CivP ASLBP No. 91-626-02-CivP

Dear Administrative Judges:

The Atomic Safety and Licensing Board's May 1, 1992 Memorandum and Order (Conditionally Granting Alabama Power Company (APCo) Motion to Continue Proprietary Treatment of Certain Exhibits) directed the parties to provide the Board with certain information relative to the portion of each of their exhibits for which they seek propriety treatment. The NRC Staff does not seek proprietary treatment for any of the information in question absent a current written justification from an appropriate official of the company that provided the information explaining why the information is still proprietary.¹ Pursuant to the Board's May 1, 1992 Memorandum

¹ The Board has requested this justification as part of the information it directed the parties to provide. Memorandum and Order at 7. The NRC Staff understands that APCo has requested the owners of the information claimed to be proprietary to provide the (continued...)

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Order, the NRC Staff provides the following information to assist the Board in making a final determination regarding the purportedly proprietary information in APCo Exhibits 16, 17, and 20, and Staff Exhibit 32.

APCo Exhibits 16 and 17 (Technical Evaluation Reports)

By letters dated February 4, 1983, the NRC Staff transmitted Safety Evaluation Reports (SERs)² and Technical Evaluation Reports (TERs) (APCo Exhibits 16 and 17) for the Joseph M. Farley Nuclear Plant, Units 1 and 2. The SERs requested APCo to review the TERs to determine if any portions of the TER pages identified as proprietary still required proprietary protection. A justification for the protection from public disclosure was to be provided for any information still requiring proprietary treatment.³

Enclosure 1 is a copy of a February 16, 1983 letter in which APCo notified the NRC Staff that the portions of the TERs marked as proprietary still required protection from disclosure and that APCo would provide the justification for continued proprietary treatment from appropriate vendors by March 3, 1983, as requested in the SERs. Enclosure 2 is a copy of a March 3, 1983 letter in which APCo informed the NRC Staff that the vendors had not responded to

¹(...continued)
requisite written justifications if the owners determine that the information must still be so categorized.

² The SERs, with forwarding letters, have been admitted as APCo Exhibits 18 and 19.

³ See APCo Exhibits 18 and 19, SERs at 5 (Bates 53954 and 53945 respectively).

the APCo request for continued proprietary protection justification and requested until May 12, 1983, to submit the requested justification. Enclosure 3 is a copy of a April 12, 1983 letter in which the NRC Staff acknowledged APCo's March 3, 1983 letter, extended the time to submit the information to within 30 days of receipt of the April 12, 1983 NRC Staff letter, and provided "PROPRIETARY REVIEW GUIDELINES." Enclosure 4 is a copy of a May 23, 1983 letter, with attachments, in which APCo provided Environmental Qualification Reports for the Joseph M. Farley Nuclear Plant, Units 1 and 2, which addressed, among other things, the proprietary information contained in the TERS.⁴ Attachment 1 to the May 23, 1983 reports provided a list of applicable Westinghouse test reports and associated Westinghouse transmittal letters.⁵

A search of the NRC document computerized search and retrieval system⁶ and discussions with NRC Staff members, including

⁴ Section A of the May 23, 1983 reports identified 19 Unit 1 TER pages and 11 Unit 2 TER pages that Westinghouse considered proprietary. The pages so identified are a subset of the 43 Unit 1 TER pages and the 30 Unit 2 TER pages identified as proprietary in APCo Exhibits 16 and 17.

⁵ For the reports listed, the NRC Staff has discovered requests to withhold relative to WCAP-7709-L, WCAP-7709-L-Supplement 7, and WCAP-9197. The previous NRC Staff determination relative to WCAP-7709-L and its supplements is discussed under Staff Exhibit 32 *infra*.

Enclosure 5 is a copy of a December 16, 1977 application in support of withholding WCAP-9157. Enclosure 6 is a copy of the NRC Staff March 13, 1978 determination to withhold WCAP-9157. The determination relied for its reasoning on an April 15, 1977 determination in connection with North Anna, Units 1 and 2. A search of the NRC document computerized search and retrieval system was unsuccessful in locating the April 15, 1977 determination.

⁶ Nuclear Document System/Advanced Design (NUDOCS/AD)

information and records management personnel, have produced no documents regarding an agency determination of proprietary treatment for APCo Exhibits 16 and 17 subsequent to the May 23, 1983 reports submitted by APCo.

APCo Exhibit 20 (February 24, 1984 Letter)

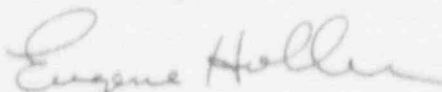
As the Board has noted, the affidavit requesting proprietary treatment for the information in Supplements 1, 2, 3 and 4 of the 1984 letter admitted as APCo Exhibit 20 is Attachment 3 to that letter. A search of the NRC document computerized search and retrieval system and discussions with NRC Staff members, including information and records management personnel, have produced no documents regarding an agency determination of proprietary treatment for APCo Exhibit 20. However, Enclosure 7, which is a copy of the 1984 letter admitted as APCo Exhibit 20 that is located in the NRC document computerized search and retrieval system, contains the handwritten notation, "Change LPDR, PDR, NTIS, NSIC, Ltr. Only!" The computerized bibliographic display for the document contains, as part of the document title, "Encl withheld (ref 10CFR2.790)."

Staff Exhibit 32 (WCAP-7709-L)

Enclosure 8 is a copy of a July 14, 1971 letter which forwarded Westinghouse Report WCAP-7709-L to the NRC Staff and requested that the report be withheld from public disclosure. A search of the NRC document computerized search and retrieval system and discussions with NRC Staff members, including

information and records management personnel, have produced no affidavits supplied to the agency in support of the request for treatment of this information as proprietary.⁷ Enclosure 10 is a copy of a November 11, 1977 determination by the NRC Staff that Supplements 1 through 6 of WCAP-7709-L should be withheld from public disclosure, but that no determination is required for WCAP-7709-L because the information therein was declassified by the submittal of WCAP-7820, a non-proprietary version of WCAP-7709-L containing the "identical" information as that in WCAP-7709-L.

Sincerely,



Eugene Holler
Counsel for NRC Staff

Enclosures: As stated

cc: Service List

⁷ The NRC Staff discovered a copy of a September 21, 1977 application in support of withholding WCAP-7709-L-Supplement 7, which contains an affidavit purported to be proprietary. Enclosure 9 is a copy of a December 20, 1977 determination by the NRC Staff that WCAP-7709-L-Supplement 7 should be withheld from public disclosure. Because WCAP-7709-L-Supplement 7 does not appear to be relevant here and because the affidavit offered in support of withholding the document is purported to be proprietary, the NRC Staff has not included the September 21, 1977 application among the documents provided to the Board.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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ALABAMA POWER COMPANY) Docket Nos. 50-348-CivP
(Joseph M. Farley Nuclear Plant,) 50-364-CivP
Units 1 and 2) (ASLBP No. 91-626-02-CivP)

OFFICE OF SECRETARY
ADMINISTRATIVE SERVICE
BRANCH

CERTIFICATE OF SERVICE

I hereby certify that copies of "LETTER TO ADMINISTRATIVE JUDGES DATED JUNE 30, 1992" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 30th day of June, 1992:

G. Paul Bellwerk, III*
Chairman
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U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Peter A. Morris
Administrative Judge
10825 South Glen Road
Potomac, MD 20854

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Washington, DC 20555
Attn: Docketing and Service Section

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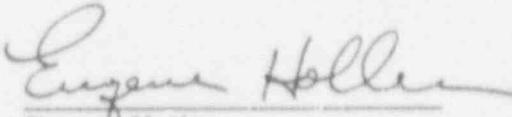
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Atomic Safety and Licensing
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Adjudicatory File (2)*
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