

August 19, 1998

Document Control Desk
United States Nuclear Regulatory Commission
Washington, DC 20555

ATTN: T. R. Quay

Subject: RESPONSE TO NRC LETTERS CONCERNING REQUEST FOR
WITHHOLDING INFORMATION

- Reference:
1. Letter, Scaletti to Kenny, "Request for withholding proprietary information - Electric Power Research Institute (EPRI) report TR-103581, "Thermal Stratification, Cycling and Striping", dated August 16, 1996.
 2. Letter, Jackson to Kenny, "Request for withholding information from public disclosure, Westinghouse AP600 design letter of September 21, 1995", dated November 28, 1995
 3. Letter, Jackson to Kenny, "Request for withholding information from public disclosure, Westinghouse AP600 design letter of May 15, 1995", dated November 30, 1995.

Dear Mr. Quay:

Reference 1 sets forth the NRC assessment of the EPRI claim for treatment of proprietary information submitted by Westinghouse in a letter dated June 27, 1996, which letter provided Electric Power Research Institute (EPRI) report TR-103581, "Thermal Stratification, Cycling and Striping". This Westinghouse letter included an EPRI affidavit dated June 18, 1996. The NRC assessment was that since no specific portions of the report were marked as proprietary and a nonproprietary version of the report was not submitted for a comparison, the staff was not able to determine which portions of the report EPRI wishes to be withheld from public disclosure. Based on a 1994 NRC staff review of the report, the staff did not dispute that the report contained proprietary information, only the apparent claim that the entire report was still proprietary. The staff requested that the report be resubmitted with the requested materials to be withheld specifically identified and also that a nonproprietary version be provided. EPRI report TR-103581 was originally published on May 24, 1994. At this time, EPRI's business and technical staff determined that EPRI did not have the extra man-hours or budget available

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necessary to satisfy the NRC request. However, it is sufficiently long ago and to avoid affecting the AP600 design certification review, EPRI agrees that this report can now be released to the public document room.

Reference 2 sets forth the NRC assessment of the EPRI claim for treatment of proprietary information submitted by Westinghouse in a letter dated September 21, 1995, which letter provided Electric Power Research Institute (EPRI) documents, "GOTHIC Containment Analysis Package Qualification Report," Numerical Applications, Inc. NAI8907-09, Revision 2, Version 4, dated September 1993, "GOTHIC Containment Analysis Package Technical Manual," Numerical Applications, Inc. NAI8907-09, Revision 3, Version 4, dated September 1993, and "GOTHIC Containment Analysis Package Users Manual," Numerical Applications, Inc. NAI8907-09, Revision 4.0, dated September 1993. This Westinghouse letter included an EPRI affidavit dated September 14, 1995. This request was discussed with representatives from EPRI, the NRC and Westinghouse in a telephone conference on October 5, 1995. While the staff noted that some of the information is proprietary, a number of sections do not contain trade secrets or proprietary commercial information. The NRC assessment was that since no specific portions of the report were marked as proprietary and a nonproprietary version of the report was not submitted for a comparison, the staff was not able to determine which portions of the report EPRI wishes to be withheld from public disclosure. EPRI was requested to provide a detailed justification as to why the information is considered to be proprietary and to furnish nonproprietary versions of the three reports.

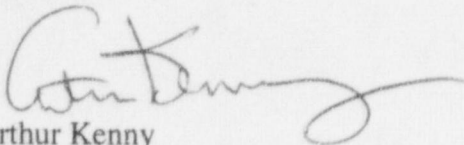
Again, EPRI's business decision at the time was, EPRI had neither the extra man-hours or budget to comply with the NRC request. Instead, EPRI and the NRC negotiated and executed a royalty-free, license for the GOTHIC computer code on April 29, 1996. This agreement was signed by Mr. James Taylor, Executive Director for Operations for the NRC and myself for EPRI. As a part of this agreement, the NRC agreed that the Program (any and all proprietary and supplementary information provided with the Program) contains and constitutes information proprietary to EPRI. The NRC also recognized that it had a duty to protect EPRI's proprietary Program. The reports referenced in Reference 2 constitute part of the Program. Based on the April 29, 1996 agreement between EPRI and the NRC, EPRI believes that no further action is necessary concerning the request in Reference 2.

Reference 3 sets forth the NRC assessment of the EPRI claim for treatment of proprietary information submitted by Westinghouse in a letter dated May 15, 1995, which letter provided Electric Power Research Institute (EPRI) report RA-93-10, "GOTHIC Design Review, Final Report", dated September 30, 1993. This Westinghouse letter included an EPRI affidavit dated May 11, 1995. This request was discussed with representatives from EPRI, the NRC and Westinghouse in a telephone conference on October 5, 1995. While the staff noted that some of the information is proprietary, a number of sections do not

contain trade secrets or proprietary commercial information. The NRC assessment was that since no specific portions of the report were marked as proprietary and a nonproprietary version of the report was not been submitted for a comparison, the staff was not able to determine which portions of the report EPRI wishes to be withheld from public disclosure. EPRI was requested to provide a detailed justification as to why the information is considered to be proprietary and to furnish nonproprietary versions of the report. As discussed above, EPRI had no extra man-hours or budget to comply with the NRC request and the EPRI report RA-93-10, would be considered a part of the Program. Therefore, based on the April 29, 1996 agreement between EPRI and the NRC, EPRI believes that no further action is necessary concerning the request in Reference 3.

In summary, EPRI Report TR-103581 may be placed in the public document room. However, the other material discussed above should not be placed in the public document room. Additionally, EPRI has licensed this material to Numerical Applications, Inc. Our Licensee informed us, at the time of the original request, that EPRI should not publicly disclose this information. Please contact me at (650) 855-2845, FAX (650) 855-8931 or e-mail akenny@epri.com, if you have any questions concerning the disposition of these issues raised by the NRC related to EPRI proprietary information.

Sincerely,



Arthur Kenny
Intellectual Property Attorney
Intellectual Property

cc: B. A. McIntyre - Westinghouse
D. Scaletti - NRC/NRR/DRPM
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