

Ref. Docket No. 99902016

May 26, 2021

Document Control Desk
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Request for Withholding of the following Proprietary Information Included in:

EPRI Presentation Materials for May 27, 2021 Closed Meeting
with the NRC to Discuss Potential Non-Conservatism in EPRI Report,
BWRVIP-100, Rev, 1-A, and EPRI Software, BWRVIP-235

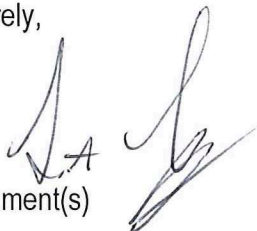
To Whom It May Concern:

This is a request under 10 C.F.R. §2.390(a)(4) that the U.S. Nuclear Regulatory Commission ("NRC") withhold from public disclosure the report identified in the enclosed Affidavit consisting of the proprietary information owned by Electric Power Research Institute, Inc. ("EPRI") identified in the attached report. Proprietary and non-proprietary versions of the presentation material and the Affidavit in support of this request are enclosed.

EPRI desires to disclose the Proprietary Information in confidence to assist the NRC review of the enclosed submittal to the NRC by EPRI. The Proprietary Information is not to be divulged to anyone outside of the NRC or to any of its contractors, nor shall any copies be made of the Proprietary Information provided herein. EPRI welcomes any discussions and/or questions relating to the information enclosed.

If you have any questions about the legal aspects of this request for withholding, please do not hesitate to contact me at (704) 595-2885. Questions on the content of the Report should be directed to Nathan Palm of EPRI at (724) 288-4043.

Sincerely,



Attachment(s)

Together . . . Shaping the Future of Electricity

CHARLOTTE OFFICE

1300 West W.T. Harris Boulevard, Charlotte, NC 28262-8550 USA • 704.595.2000 • Customer Service 800.313.3774 • www.epri.com

AFFIDAVIT

RE: Request for Withholding of the Following Proprietary Information Included In:

EPRI Presentation Materials for May 27, 2021 Closed Meeting
with the NRC to Discuss Potential Non-Conservatism in EPRI Report,
BWRVIP-100, Rev, 1-A, and EPRI Software, BWRVIP-235

I, Steve Chengelis, being duly sworn, depose and state as follows:

I am the Director of Plant Support at Electric Power Research Institute, Inc. whose principal office is located at 3420 Hillview Avenue, Palo Alto, California ("EPRI") and I have been specifically delegated responsibility for the above-listed Report that contains EPRI Proprietary Information that is sought under this Affidavit to be withheld "Proprietary Information". I am authorized to apply to the U.S. Nuclear Regulatory Commission ("NRC") for the withholding of the Proprietary Information on behalf of EPRI.

EPRI Proprietary Information is identified in the above referenced presentation materials by double brackets. Example of such identification is as follows:

[[This sentence is an example]]

Tables, figures, or graphics containing EPRI Proprietary Information are identified with double brackets before and after the object. In each case this affidavit is the basis for the proprietary determination.

EPRI requests that the Proprietary Information be withheld from the public on the following bases:

Withholding Based Upon Privileged And Confidential Trade Secrets Or Commercial Or Financial Information (see e.g. 10 C.F.R. §2.390(a)(4)):

a. The Proprietary Information is owned by EPRI and has been held in confidence by EPRI. All entities accepting copies of the Proprietary Information do so subject to written agreements imposing an obligation upon the recipient to maintain the confidentiality of the Proprietary Information. The Proprietary Information is disclosed only to parties who agree, in writing, to preserve the confidentiality thereof.

b. EPRI considers the Proprietary information contained therein to constitute trade secrets of EPRI. As such, EPRI holds the Information in confidence and disclosure thereof is strictly limited to individuals and entities who have agreed, in writing, to maintain the confidentiality of the Information.

c. The information sought to be withheld is considered to be proprietary for the following reasons. EPRI made a substantial economic investment to develop the Proprietary Information, and, by prohibiting public disclosure, EPRI derives an economic benefit in the form of licensing royalties and other additional fees from the confidential nature of the Proprietary Information. If the Proprietary Information were publicly available to consultants and/or other businesses providing services in the electric and/or nuclear power industry, they would be able to use the Proprietary Information for their own commercial

benefit and profit and without expending the substantial economic resources required of EPRI to develop the Proprietary Information.

d. EPRI's classification of the Proprietary Information as trade secrets is justified by the Uniform Trade Secrets Act which California adopted in 1984 and a version of which has been adopted by over forty states. The California Uniform Trade Secrets Act, California Civil Code §§3426 – 3426.11, defines a "trade secret" as follows:

"Trade secret" means information, including a formula, pattern, compilation, program device, method, technique, or process, that:

(1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and

(2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

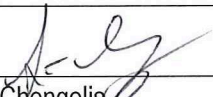
e. The Proprietary Information contained therein are not generally known or available to the public. EPRI developed the Information only after making a determination that the Proprietary Information was not available from public sources. EPRI made a substantial investment of both money and employee hours in the development of the Proprietary Information. EPRI was required to devote these resources and effort to derive the Proprietary Information. As a result of such effort and cost, both in terms of dollars spent and dedicated employee time, the Proprietary Information is highly valuable to EPRI.

f. A public disclosure of the Proprietary Information would be highly likely to cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Proprietary Information both domestically and internationally. The Proprietary Information can only be acquired and/or duplicated by others using an equivalent investment of time and effort.

I have read the foregoing and the matters stated herein are true and correct to the best of my knowledge, information and belief. I make this affidavit under penalty of perjury under the laws of the United States of America and under the laws of the State of North Carolina.

Executed at 1300 W WT Harris Blvd., Charlotte, North Carolina being the premises and place of business of Electric Power Research Institute, Inc.

Date: 5/26/21



Steve Chengelis

(State of North Carolina)
(County of Mecklenburg)

Subscribed and sworn to (or affirmed) before me on this 26th day of May, 2021, by Stene Changelis, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature Deborah H. Rouse (Seal)

My Commission Expires 2nd day of April, 2026

