

ATTACHMENT 4

TransWare Enterprises Inc. Affidavits

Affidavit

I, **Kathleen A. Jones**, state as follows:

1. I am the Chief Operating Officer of TransWare Enterprises Inc. (“TWE”) and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld and have been authorized to apply for its withholding.
2. The information sought to be withheld is contained in the attachment TransWare Enterprises Inc. Document No. LAS-FLU-001-R-009, Revision 0, “LaSalle County Generating Station Unit 1 Fluence Methodology Report – Licensing Report,” October 2021. TWE proprietary information is indicated by enclosing it in double brackets and highlighting the proprietary text in blue. Paragraph 3 of this affidavit provides the basis for the proprietary determination.
3. In making this application for withholding of proprietary information of which it is the owner or licensee, TWE relies upon the exemption of disclosure set forth in the Freedom of Information Act (“FOIA”), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and the NRC regulations 10CFR9.17(a)(4) and 2.390(a)(4) for “trade secrets and commercial or financial information obtained from a person and privileged or confidential” (Exemption 4). The material for which exemption from disclosure is here sought is all “confidential and commercial information,” and some portions also qualify under the narrower definition of “trade secret,” within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
4. Some examples of categories of information that fit into the definition of proprietary information are:
 - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by TWE's competitors without license from TWE constitutes a competitive economic advantage over other companies;
 - b. Information which, if used by a competitor, could reduce the competitor's expenditure of resources or improve competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;
 - c. Information that reveals cost or price information, production capacities, budget levels, or commercial strategies of TWE, its customers, or its suppliers;
 - d. Information which reveals aspects of past, present, or future TWE customer-funded development plans and programs of potential commercial value to TWE;
 - e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs 4a. and 4b., above.

5. To address 10CFR2.390 (b)(4), the information sought to be withheld is being submitted to the NRC in confidence. The information is of a sort customarily held in confidence by TWE, and is in fact so held. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs 6 and 7 following. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by TWE, no public disclosure has been made, and it is not available to public sources. All disclosures to third parties including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence.
6. Initial approval of proprietary treatment of a document is made by the manner of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or subject to the terms under which it was licensed to TWE. Access to such documents within TWE is limited on a "need-to-know" basis.
7. The procedure for approval of external release of such a document typically requires review by the project manager, principal engineer, and by the Quality Assurance department for technical content, competitive effect, and the determination of the accuracy of the proprietary designation. Disclosures outside TWE are limited to regulatory bodies, customers, and potential customers and their agents, suppliers, and licensees, and others with a legitimate need for the information and then only in accordance with appropriate regulatory provisions or proprietary agreements.
8. The information identified in paragraph 2 is classified as proprietary because it contains details of TWE's methodologies for fluence and uncertainty analyses.

The development of the methods used in these analyses, along with the testing, development, and approval of the supporting methodology was achieved at a significant cost, on the order of several million dollars, to TWE or its licensor.

9. Public disclosure of the information sought to be withheld is likely to cause substantial harm to TWE's competitive position and foreclose or reduce the availability of profit-making opportunities. The methodologies for fluence and uncertainty analyses are part of TWE's nuclear engineering consulting base expertise and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical, and NRC review costs comprise a substantial investment of time and money by TWE or its licensor.

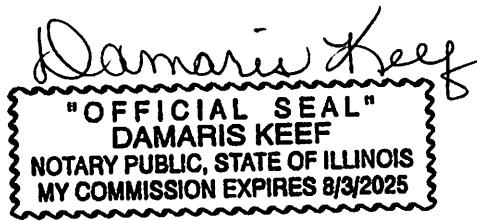
The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it is clearly substantial.

TWE's competitive advantage will be lost if its competitors are able to use the results of the TWE experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to TWE would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall and deprive TWE of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

Executed at Sycamore, Illinois, this 13th day of October, 2021.



13th Oct 2021

Kathleen A. Jones

Kathleen A. Jones
TransWare Enterprises Inc.

Affidavit

I, Kathleen A. Jones, state as follows:

1. I am the Chief Operating Officer of TransWare Enterprises Inc. (“TWE”) and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld and have been authorized to apply for its withholding.
2. The information sought to be withheld is contained in the attachment TransWare Enterprises Inc. Document No. LAS-FLU-001-R-009, Attachment 1 Revision 0, “Qualification of the LaSalle Unit 1 Reactor Fluence Model – Cycles 1 to 18,” October 2021. TWE proprietary information is indicated by enclosing it in double brackets and highlighting the proprietary text in blue. Paragraph 3 of this affidavit provides the basis for the proprietary determination.
3. In making this application for withholding of proprietary information of which it is the owner or licensee, TWE relies upon the exemption of disclosure set forth in the Freedom of Information Act (“FOIA”), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and the NRC regulations 10CFR9.17(a)(4) and 2.390(a)(4) for “trade secrets and commercial or financial information obtained from a person and privileged or confidential” (Exemption 4). The material for which exemption from disclosure is here sought is all “confidential and commercial information,” and some portions also qualify under the narrower definition of “trade secret,” within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
4. Some examples of categories of information that fit into the definition of proprietary information are:
 - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by TWE's competitors without license from TWE constitutes a competitive economic advantage over other companies;
 - b. Information which, if used by a competitor, could reduce the competitor's expenditure of resources or improve competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;
 - c. Information that reveals cost or price information, production capacities, budget levels, or commercial strategies of TWE, its customers, or its suppliers;
 - d. Information which reveals aspects of past, present, or future TWE customer-funded development plans and programs of potential commercial value to TWE;
 - e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs 4a. and 4b., above.

5. To address 10CFR2.390 (b)(4), the information sought to be withheld is being submitted to the NRC in confidence. The information is of a sort customarily held in confidence by TWE, and is in fact so held. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs 6 and 7 following. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by TWE, no public disclosure has been made, and it is not available to public sources. All disclosures to third parties including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence.
6. Initial approval of proprietary treatment of a document is made by the manner of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or subject to the terms under which it was licensed to TWE. Access to such documents within TWE is limited on a "need-to-know" basis.
7. The procedure for approval of external release of such a document typically requires review by the project manager, principal engineer, and by the Quality Assurance department for technical content, competitive effect, and the determination of the accuracy of the proprietary designation. Disclosures outside TWE are limited to regulatory bodies, customers, and potential customers and their agents, suppliers, and licensees, and others with a legitimate need for the information and then only in accordance with appropriate regulatory provisions or proprietary agreements.
8. The information identified in paragraph 2 is classified as proprietary because it contains details of TWE's methodologies for fluence and uncertainty analyses.

The development of the methods used in these analyses, along with the testing, development, and approval of the supporting methodology was achieved at a significant cost, on the order of several million dollars, to TWE or its licensor.

9. Public disclosure of the information sought to be withheld is likely to cause substantial harm to TWE's competitive position and foreclose or reduce the availability of profit-making opportunities. The methodologies for fluence and uncertainty analyses are part of TWE's nuclear engineering consulting base expertise and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical, and NRC review costs comprise a substantial investment of time and money by TWE or its licensor.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it is clearly substantial.

TWE's competitive advantage will be lost if its competitors are able to use the results of the TWE experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

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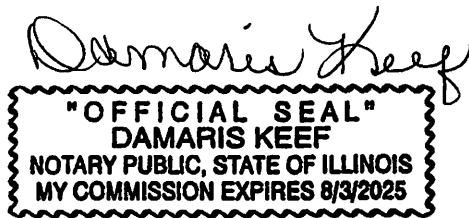
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