



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 14, 2023

Mr. David B. Hamilton
Executive Vice President
and Chief Nuclear Officer
Energy Harbor Nuclear Corp.
168 E. Market Street
Akron, OH 44308-2014

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR BEAVER VALLEY POWER STATION, UNITS. 1 AND 2, DAVIS BESSE NUCLEAR POWER STATION, UNIT. 1, AND PERRY NUCLEAR POWER PLANT, UNIT 1 (EPID L-2023-LLL-0003)

Dear Mr. Hamilton:

By letter dated January 25, 2023, you submitted an affidavit dated October 13, 2022, executed by Stuart Cohan, Managing Director and Head of Legal, Nuveen Asset Management, LLC (Nuveen), and you requested that the information contained in the following document be withheld from public disclosure pursuant to Section 2.390 of Title 10 of the *Code of Federal Regulations* (10 CFR):

Amended and Restated Voting Agreement.

A nonproprietary copy of this document has been placed in the U.S. Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the NRC Library in the Agencywide Documents Access and Management System (ADAMS).

The affidavit submitted by Nuveen stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- a. The A&R Voting Agreement is and has been held in confidence-by Nuveen and its affiliates.
- b. The A&R Voting Agreement is of the type that is held in confidence by Nuveen and its affiliates, and there is a rational basis for doing so because the information contained in the document consists of highly sensitive and confidential commercial terms, and commercial and financial information. Public disclosure of this information could hamper the parties negotiating positions in future transactions.
- c. This information is being transmitted to the NRC in confidence.
- d. This information is not available from public sources and could not be gathered readily from other public sources.

- e. Public disclosure of this information would create substantial harm to competitive position of Nuveen in this transaction or future transactions of the same or similar nature in disclosing Nuveen's internal positions and policies related to such transactions with other parties who may be averse to the commercial interests of Nuveen.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version(s) of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) 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 U.S. Nuclear Regulatory Commission (NRC). You also should understand that the NRC may have cause to review this 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.

If you have any questions, please contact me at 301-415-3733 or via e-mail at Robert.Kuntz@nrc.gov.

Sincerely,

/RA/

Robert F. Kuntz, Senior Project Manager
Plant Licensing Branch III
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-334, 50-412,
50-316, and 50-440

cc: Listserv

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