



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

February 12, 2024

Dr. Jennifer Uhle
Vice President, Technical and Regulatory Services
Nuclear Energy Institute
1201 F Street, Suite 1100
Washington, DC 20004

SUBJECT: NUCLEAR ENERGY INSTITUTE TECHNICAL REPORT NEI 20-07, DRAFT REVISION E, REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE (EPID L-2023-NFN-0012)

Dear Dr. Uhle:

By letter dated July 24, 2023 (Agencywide Documents Access and Management System Accession No. ML23205A188), you submitted an affidavit dated July 20, 2023, requesting that the information contained in the draft document entitled Nuclear Energy Institute Technical (NEI) Report NEI 20-07, Draft Revision E, "Guidance for Addressing Common Cause Failure in High Safety-Significant Safety-Related Digital I&C Systems" be withheld from public disclosure pursuant to Section 2.390 of Title 10 of the *Code of Federal Regulations* (10 CFR).

You provided the following reasons for requesting that the U.S. Nuclear Regulatory Commission (NRC) withhold information in the draft document:

- The information contained in NEI 20-07 has been held in confidence by NEI and NEI does not currently plan to make the document available to the general public;
- NEI 20-07 contains internal NEI confidential commercial information that has not been made available to the public and is not available via public sources; and
- NEI 20-07 is of commercial value to NEI, and a public release would harm NEI's competitive position.

We have reviewed your draft document and your request in accordance with 10 CFR 2.390 and have concluded that some of the information sought to be withheld from public disclosure does conform to the regulation at 10 CFR 2.390. However, a notable amount of the information sought to be withheld is already publicly available and you have not provided sufficient justification for the NRC to determine that withholding the information is in the public interest. Specifically, some of the information sought to be withheld (1) is publicly available from the NRC; (2) was provided publicly to the NRC with the submittal of NEI 20-07, Draft Revision D; (3) is available in other parts of Draft Revision E that are not being withheld; and (4) has not been held in confidence by NEI. Further, you have not demonstrated that the information at issue meets any of the exemptions from disclosure in 10 CFR 2.390. The reasons for NRC

staff's decision on this matter were discussed with your staff during a closed public meeting on January 23, 2024.

Accordingly, we have concluded that some of the information sought to be withheld from public disclosure does not warrant being withheld, in accordance with 10 CFR 2.390. Therefore, your request to withhold NEI 20-07, Draft Revision E, "Guidance for Addressing Common Cause Failure in High Safety-Significant Safety-Related Digital I&C Systems," from public disclosure is denied.

Within 30 days of the date of this letter, the subject document will be placed in the NRC's Public Document Room. If, within 30 days of the date of this letter, you request withdrawal of the documents in accordance with 10 CFR 2.390(c), your request will be considered in light of applicable statutes and regulations and a determination made whether the documents will be withheld from public disclosure and returned to you.

If you have any questions regarding this matter, I may be reached at 301-415-2871 or michael.marshall@nrc.gov.

Sincerely,

/RA/

Michael L. Marshall, Jr., Senior Project Manager
Plant Licensing Branch I
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Project No: 99902028

SUBJECT: NUCLEAR ENERGY INSTITUTE TECHNICAL REPORT NEI 20-07, DRAFT REVISION E, REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE (EPID L-2023-NFN-0012) DATED FEBRUARY 12, 2024

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