



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

June 5, 2024

James Barstow
Vice President, Nuclear Regulatory
Affairs and Support Services
Tennessee Valley Authority
1101 Market Street, LP 4A-C
Chattanooga, TN 37402-2801

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE REGARDING THE BROWNS FERRY NUCLEAR PLANT, UNITS 1, 2, AND 3 – APPLICATION FOR SUBSEQUENT RENEWED OPERATING LICENSES, SUPPLEMENTAL INFORMATION - NEUTRON FLUENCE ANALYSES METHODOLOGY (EPID NOS. L-2023-SLR-0000 AND L-2024-SLE-0000)

Dear James Barstow:

By letter dated January 19, 2024 (Agencywide Documents Access and Management System (ADAMS) Package Accession No. ML24019A009), as supplemented by letter dated January 22, 2024 (ML24022A292), Tennessee Valley Authority (TVA) submitted an application for subsequent renewal of Renewed Facility Operating License Nos. DPR-33, DPR-52, and DPR-68 for Browns Ferry Nuclear Plant (BFN), Units 1, 2, and 3, respectively, to the U.S. Nuclear Regulatory Commission (NRC) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants."

As part of the letter dated January 22, 2024, TVA submitted four affidavits, each dated October 25, 2023, and executed by Kathleen A. Jones, Chief Operating Officer of TransWare Enterprises Inc. (TWE), and requested, on behalf of TWE, that specifically identified information in the following documents be withheld from public disclosure pursuant to 10 CFR 2.390, "Public inspections, exemptions, requests for withholding":

- BFN-FLU-001-R-001-LP, Revision 1, "Browns Ferry Nuclear Plant Fluence Methodology Report," October 2023
- BFN-FLU-001-R-001-LP, Attachment 1, Revision 1, "Qualification of the Browns Ferry Unit 2 Reactor Fluence Model – Cycles 1 to 21," October 2023
- BFN-FLU-001-R-001-LP, Attachment 2, Revision 1, "Qualification of the Browns Ferry Unit 1 Reactor Fluence Model – Cycles 1 to 13," October 2023
- BFN-FLU-001-R-001-LP, Attachment 3, Revision 1, "Qualification of the Browns Ferry Unit 3 Reactor Fluence Model – Cycles 1 to 20," October 2023

A nonproprietary version of these documents with redaction of the specifically identified information has been made available through the web-based version of the NRC's ADAMS at <https://www.nrc.gov/readingrm/adams.html> under ADAMS Accession No. ML24022A292.

The TWE affidavits state that the specifically identified information should be considered exempt from mandatory public disclosure for the following reasons:

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....

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....

The NRC staff has reviewed the submitted documents in accordance with the requirements of 10 CFR 9.17, "Agency records exempt from public disclosure," and 10 CFR 2.390 and, on the basis of the statements in the affidavits, has determined that the specifically identified information in these documents sought to be withheld are trade secrets or commercial or financial information obtained from a person that are privileged or confidential and, therefore, should be withheld from public disclosure. Accordingly, the version of the submitted documents 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, the NRC may send copies of this information to its

consultants working in this area. The NRC will 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 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 the specifically identified 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 regarding this matter, I may be reached at 301-415-0740, or by email at Jessica.Hammock@nrc.gov.

Sincerely,

/RA/

Jessica M. Hammock, Project Manager
License Renewal Project Branch
Division of Materials and License Renewal
Office of Nuclear Reactor Regulation

Docket Nos. 50-259, 50-260,
and 50-296

cc: Listserv

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ADAMS Accession No.: ML24068A261

***via e-mail**

NRR-106

OFFICE	PNLRP/DNLR/PM	NLRP/DNLR/LA	NLRP/DNLR/PM	OGC NLO
NAME	Alm*	KBratcher*	JHammock*	JWachutka
DATE	3/08/2024	3/11/2024	4/18/2024	5/08/2024
OFFICE	NLRP/DNLR/BC	NLRP/DNLR/PM		
NAME	LGibson*	JHammock*		
DATE	6/05/2024	6/05/2024		

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