

Enclosure 3

USNC's Affidavit and Request for Withholding from Public Disclosure



ULTRA SAFE NUCLEAR

AFFIDAVIT of Zackary W. Rad

I, Zackary W. Rad, state as follows:

- (1) I am the Vice President of Regulatory Affairs and Quality of Ultra Safe Nuclear Corporation (USNC), and as such, I have been specifically delegated the function of reviewing the information described in this Affidavit that USNC seeks to have withheld from public disclosure and am authorized to apply for its withholding on behalf of USNC. The purpose of this Affidavit is to provide the information required by 10 CFR 2.390(b) in support of USNC's request for proprietary treatment of certain proprietary information. The information sought to be withheld is in the enclosed Topical Report entitled "University of Illinois Urbana-Champaign High-Temperature Gas-cooled Research Reactor: Fuel Qualification Methodology," IMRDD-MMR-24-01-P. Enclosure 1 contains the designation "Proprietary Information Withhold under 10 CFR 2.390" at the top of each page containing proprietary information. The information considered by USNC to be proprietary is identified within double braces, "{{ }}" in the document.
- (2) I am knowledgeable of the criteria and procedures used by USNC in designating information as a trade secret, privileged, or as confidential commercial or financial information. This request to withhold information from public disclosure is driven by the following:
 - The information requested to be withheld reveals distinguishing aspects of a process (or component, structure, tool, method, etc.) whose use by USNC competitors, without a license from USNC, would constitute a competitive economic disadvantage to USNC, and,
 - Use by a competitor of the information requested to be withheld would reduce the competitor's expenditure of resources, or improve its competitive position, in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.
- (3) Public disclosure of the information sought to be withheld is likely to cause substantial harm to USNC's competitive position and foreclose or reduce the availability of profit-making opportunities. The accompanying Topical Report reveals distinguishing aspects about the method by which USNC develops its fuel qualification.

USNC has performed significant research and evaluation to develop a basis for this method and has invested significant resources, including the expenditure of a considerable sum of money.

The precise financial value of the information is difficult to quantify, but it is a key element of the design basis for a USNC plant and, therefore, has substantial value to USNC.

If the information were disclosed to the public, USNC's competitors would have access to the information without purchasing the right to use it or having been required to undertake a similar expenditure of resources. Such disclosure would constitute a misappropriation of USNC's intellectual property and would deprive USNC of the opportunity to exercise its competitive advantage to seek an adequate return on its investment.
- (4) The basis for proposing that the information be withheld is that USNC treats the information as a trade secret, privileged, or as confidential commercial or financial information. USNC relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC § 552(b)(4), as well as exemptions applicable to the NRC under 10 CFR § 2.390(a)(4) and § 9.17(a)(4).
- (5) Pursuant to the provisions set forth in 10 CFR § 2.390(b)(4), the following is provided for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld:



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- (a) The information sought to be withheld is owned and has been held in confidence by USNC.
- (b) The information is of a sort customarily held in confidence by USNC and, to the best of my knowledge and belief, consistently has been held in confidence by USNC. The procedure for approval of external release of such information typically requires review by the staff manager, project manager, chief technology officer or other equivalent authority, or the manager of the cognizant marketing function (or his delegate), for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside USNC are limited to regulatory bodies, customers and potential customers and their agents, suppliers, licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or contractual agreements to maintain confidentiality.
- (c) The information is being transmitted to and received by the NRC in confidence.
- (d) No public disclosure of the information has been made, and it is not available in public sources. All disclosures to third parties, including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or contractual agreements that provide for maintenance of the information in confidence.
- (e) Public disclosure of the information is likely to cause substantial harm to the competitive position of USNC, taking into account the value of the information to USNC, the amount of effort and money expended by USNC in developing the information, and the difficulty others would have in acquiring or duplicating the information. The information sought to be withheld is part of USNC's technology that provides USNC with a competitive advantage over other firms in the industry. USNC has invested significant human and financial capital in developing this technology and USNC believes it would be difficult for others to duplicate the technology without access to the information sought to be withheld.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 6, 2024.



Zackary W. Rad