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January 9, 2008

Ms. Verlette L. Gatlin
Deputy Director
Office of Information Resources
U.S. Department of Energy
Mailstop MA-90, Room 1G-051
1000 Independence Ave., SW
Washington, D.C. 20585
By Fax to: (202) 586-0575

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OTHER - 2 HOURS SEARCH FREE, 100 FREE PAGES

Re: Freedom of Information Act Request

Dear Ms. Gatlin:

On behalf of Texans for a Sound Energy Policy ("TSEP"), and pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and Department of Energy ("DOE") regulations, 10 C.F.R. Part 1004, I respectfully request the following records that are related to the DOE's Loan Guarantee Program for new nuclear power reactors, as described at 72 Fed. Reg. 60,116 (Oct. 23, 2007). This request is intended to supplement TSEP's November 17, 2008 request for records. As such, TSEP seeks only those responsive records that have been generated or have otherwise come into DOE's possession since November 17, 2008.

1) All Part I and Part II applications for loan guarantees for new nuclear power plants that have been received, in whole or in part, by the DOE.

2) All records pertaining to DOE's evaluation of the submitted applications, including but not limited to:

   a. The process(es) and/or objective criteria used by DOE in its evaluation;

   b. The DOE's evaluation of any of the individual applications;

   c. All correspondence between the DOE and any of the applicants for loan guarantees for new nuclear power plants.

   d. Any records pertaining to the basis or bases for DOE's determination as to whether a particular application is classified as Tier 1 or Tier 2.

3) All records pertaining to any environmental critique prepared by DOE in regards to any application for a loan guarantee, including but not limited to:

FOIA-2009-000019

a. Any evaluation of the potential environmental impacts of any proposed project;

b. The process(es) and/or objective criteria used by DOE in its critique;

c. All correspondence between the DOE and any of the applicants for loan guarantees for new nuclear power plants regarding an environmental critique.

d. Any records pertaining to any conclusions drawn and/or recommendations made by DOE as the result of an environmental critique, including the basis or bases for those conclusions and/or recommendations.

For purposes of this request, the term "record" means: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, telegrams, teletypes, facsimiles, papers, forms, records, telephone messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazines or newspaper articles or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail, meaning any electronically transmitted text or graphic communication created upon and transmitted or received by any computer or other electronic device, and all materials stored on compact disk, computer disk, diskette, hard drive, server, or tape; (3) any audio, aural, visual, or video records, recordings, or representations of any kind, including without limitation all cassette tapes, compact disks, digital video disks, microfiche, microfilm, motion pictures, pictures, photographs, or videotapes; (4) any graphic materials and data compilations from which information can be obtained; (5) any materials using other means of preserving thought or expression; and (6) any tangible things from which data or information can be obtained, processed, recorded, or transcribed. The term "record" also includes any drafts, alterations, amendments, changes, or modifications of or to any of the foregoing.

If it is your position that records exist that are responsive to this request, but that those records (or portions of those records) are exempt from disclosure pursuant to 10 C.F.R. § 1004.10, please identify the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the non-exempt portions of the records. TSEP is not requesting the Loan Guarantee Program Final Rule, 72 Fed. Reg. 60,116 (Oct. 23, 2007), or the DOE Loan Guarantee Solicitation Announcement for Nuclear Power Facilities, DE-FOA-0000006 (July 11, 2007).

Request for Waiver of Fees

TSEP hereby requests that all fees in connection with this FOIA request be waived in accordance with the provisions of 10 C.F.R. § 10004.9(a)(8), which state that "[t]he DOE will furnish documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and disclosure is not primarily in the commercial interest of the requester." The requested documents will significantly contribute to the public's understanding of the operations and activities of the DOE by illuminating in a clear and direct way the process(es) and criteria the DOE uses for selecting recipients of loan guarantees and the basis or bases for its decisions. The materials will not be used for TSEP's commercial use or gain.

TSEP is a nonprofit organization that supports a Texas energy supply policy that is reasonable, sustainable and environmentally-sound. TSEP seeks to inform the public of the environmental, economic, and public health risks associated with the planned construction and operation of a nuclear power plant in Victoria, Texas. TSEP is particularly concerned that the DOE's review of applications for loan guarantees is being carried out in a rushed and secretive manner that purposefully casts a shroud on the government's decisionmaking process and potentially jeopardizes the public's health and safety. TSEP believes that the public is entitled to be informed about the process(es), criteria, and standards that DOE has employed (and will employ) in reviewing applications for loan guarantees to assist in the construction and operation of numerous and varied reactor designs that have not yet been certified by the Nuclear Regulatory Commission ("NRC").

In addition, TSEP is concerned that DOE is not complying with the National Environmental Policy Act ("NEPA") mandate that an environmental impact statement ("EIS") be completed for all major federal actions. DOE stated that it "will prepare an environmental critique for applications determined to be in the competitive range . . . after the preliminary technical and financial review is complete" but that "the environmental critique will not be available to the public." U.S. Department of Energy, Loan Guarantee Solicitation Announcement, "Federal Loan Guarantees for Nuclear Power Facilities," DE-FOA-0000006 (July 11, 2008), at p. 55. DOE further states that it "will evaluate each project to determine the appropriate level of NEPA review required," but may not necessarily prepare an EIS for each application. *Id.* TSEP is highly concerned that this potential failure to comply with NEPA does not adequately protect the public from potential harm. The requested documents will thus increase the public's understanding of the criteria used by DOE in completing the environmental critique and the basis for DOE's decision whether to prepare an EIS for a given loan guarantee application.

TSEP intends to use the requested information in furtherance of its goal of educating the public on the risks associated with nuclear energy. TSEP will disseminate the disclosed information to the public through both its website and its extensive media campaign, as well as through educational programs and events in the Victoria community.

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Accordingly, we request that you waive all fees for locating and duplicating the requested records. If, however, a waiver is not granted, then please advise us of the amount of any proposed search, review, and reproduction charges before those activities are carried out.

We will expect a response within 10 working days, as provided by 10 C.F.R. § 1004.5(d). If you have any questions regarding this request, please contact me at (202) 328-3500.

Thank you very much for your attention to this matter.

Sincerely,

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