



James F. Klapproth
Manager, Engineering and Technology

Nuclear Services
General Electric Company
175 Curtner Avenue, MC 706, San Jose, CA 95125-1088
408 925-5434, Fax: 408 925-3837
james.klapproth@gene.ge.com

April 28, 2000

MFN 00-018

U. S. Nuclear Regulatory Commission
Document Control Desk
Mail Stop 4 H6
Washington DC 20555

Attention: **Chief, Information Management Branch
Program Management
Policy Development and Analysis Staff**

Subject: **TRANSMITTAL OF REPLACEMENT GE PROPRIETARY REPORT
REGARDING EXTENDED POWER UPRATE**

- References:
1. J. F. Klapproth (GE) "Transmittal of GE Proprietary Reports Regarding Extended Power Uprate," MFN 00-004, Date January 27, 2000
 2. D. M. Crutchfield (NRC) to G. L. Sozzi (GE), "Staff Position Concerning General Electric Boiling-Water Reactor Extended Power Uprate Program" (TAC No. M91680), Date February 8, 1996
 3. T. H. Essig (NRC) to J. F. Quirk (GE), "Staff Safety Evaluation of General Electric Boiling Water Reactor (BWR) Extended Power Uprate Generic Analysis" (TAC M95087), Date September 14, 1998

Reference 1 transmitted the approved versions of the GE proprietary reports entitled "Generic Guidelines for General Electric Boiling Water Reactor Extended Power Uprate" (ELTR-1) and "Generic Evaluations of General Electric Boiling Water Reactor Extended Power Uprate" (ELTR-2) as Attachments 2 through 5. These reports incorporated the NRC Safety Evaluation Reports (SER) and associated NRC Request for Additional Information (RAI) and corresponding GE responses (References 2 and 3).

This letter transmits a replacement document for Reference 1, Attachment 3, "Generic Evaluations of General Electric Boiling Water Reactor Extended Power Uprate," NEDC- 32523P (ELTR-2), dated February 1999. The document, which was provided to you originally in Reference 1, did not include updated information regarding extended power uprate ATWS analysis. Attachment 3 to Reference 1 should be discarded and replaced by Attachment 2 to this document, which properly incorporates the ATWS clarification information.

In conjunction with the generic review of Extended Power Uprate licensing topical reports, GE submitted an application for approval to use the ODYN code for ATWS analysis. The ODYN qualification report, NEDC-24154P, presented a number of ATWS qualification studies. However, the BWR/3 ATWS study was presented in NEDC-32523P. In early 1999, an error was

TOD 7/1/14

discovered in the ATWS analysis, which required a revision to the boron mixing threshold used in ODYN and a revision to NEDC-24154P. With the revised boron mixing threshold, the BWR/3 analysis reported in NEDC-32523P was conservative, i.e., the peak suppression pool temperature was overpredicted. Since the ATWS analysis in NEDC-32523P was conservative, it was not changed. However, it is necessary to update the attached report to add a brief discussion of the error, the corrected boron mixing threshold, and appropriate references to indicate that the corrected information had been submitted to the NRC and approved.

Please note that the attached report contains information of the type that GE maintains in confidence and withholds from public disclosure. The information has been handled and classified as proprietary to GE as indicated in the attached affidavit. We hereby request that this information be withheld from public disclosure in accordance with the provisions of 10CFR2.790.

We regret the inconvenience caused by the subject omission. Should you have any questions concerning the subject document, please contact Israel Nir at 408-925-5070 or myself.

Sincerely,



J. F. Klapproth, Manager
Engineering and Technology
GE Nuclear Energy
(408) 925-5434
Internet: james.klapproth@gene.GE.com

Attachments: 1. Affidavit
2. NEDC-32523P-A, Class III, Licensing Topical Report, "Generic Evaluations of General Electric Boiling Water Reactor Extended Power Uprate" (ELTR-2), dated February 2000.

cc: R. Pulsifer (NRC)
R. Caruso (NRC)
J. Wermiel (NRC)

General Electric Company

AFFIDAVIT

I, **David J. Robare**, being duly sworn, depose and state as follows:

- (1) I am Technical Account Manager, Technical Services, General Electric Company ("GE") and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in GE Licensing Topical Report NEDC-32523P-A, Class III, , dated February, 2000, titled "*Generic Evaluations of GE Boiling Water Reactor Extended Power Uprate*" The proprietary sections of the document are indicated by gray background shading of the text or in margins of figures and tables.
- (3) In making this application for withholding of proprietary information of which it is the owner, GE relies upon the exemption from 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 NRC regulations 10 CFR 9.17(a)(4), 2.790(a)(4), and 2.790(d)(1) 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 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 which 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 General Electric's competitors without license from General Electric constitutes a competitive economic advantage over other companies;
 - b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;

- c. Information which reveals cost or price information, production capacities, budget levels, or commercial strategies of General Electric, its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future General Electric customer-funded development plans and programs, of potential commercial value to General Electric;
- e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

The information sought to be withheld is considered to be proprietary for the reasons set forth in both paragraphs (4)a. and (4)b., above.

- (5) The information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GE, and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GE, no public disclosure 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 proprietary agreements which provide for maintenance of the information in confidence. 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.
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within GE is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the cognizant marketing function (or his delegate), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GE are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.
- (8) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GE's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GE's comprehensive BWR technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine

and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods, including justifications for not including certain analyses in applications to change the licensing basis.

- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GE's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GE's comprehensive BWR safety and technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical and NRC review costs comprise a substantial investment of time and money by GE.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

GE's competitive advantage will be lost if its competitors are able to use the results of the GE experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.


The value of this information to GE would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive GE of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable analytical tools.

STATE OF CALIFORNIA)
)
COUNTY OF SANTA CLARA) ss:

David J. Robare, being duly sworn, deposes and says:

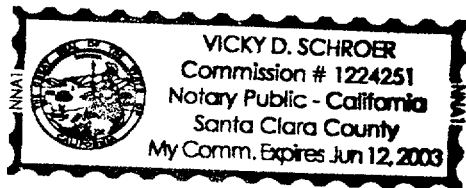
That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

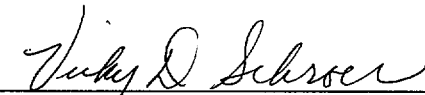
Executed at San Jose, California, this 27TH day of APRIL 2000.



David J. Robare
General Electric Company

Subscribed and sworn before me this 27th day of April 2000.





Notary Public, State of California