GE Nuclear Energy

Nuclear Services
175 Curtner Ave. M/C 747
San Jose, CA 95125
(408) 925-1913, Fax (408) 925-6710
E-mail: george.stramback@gene.ge.com

Proj 710

MFN 02-042
July 30, 2002

U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, D.C. 20555-0001

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

Subject: **Presentation Material on the GE Proprietary Licensing Report NEDC-33075P, "General Electric Boiling Water Reactor Detect and Suppress Solution–Confirmation Density"**

Enclosed are the presentation slides (Enclosure 1) for the August 8th meeting with the NRC staff to introduce and discuss the Detect and Suppress Solution-Confirmation Density (DSS-CD) method for the automatic detection and suppression of stability related power oscillations.

Please note that Enclosure 1 contains proprietary 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 and indicated in the enclosed affidavit. GE hereby requests that this information be withheld from public disclosure in accordance with the provisions of 10 CFR 2.790 and 9.17.

If you have any questions about the information provided here please contact James Harrison at (408) 925-2253, or myself.

Sincerely,

James J Harrison for

George Stramback
Regulatory Services, Project Manager
GE Nuclear Energy
(408) 925-1913
george.stramback@gene.ge.com

D065

NRC Project No. 710

Enclosures:

1) Proprietary Presentation Slides for Detect and Suppress Solution–Confirmation Density Meeting
2) GE Proprietary Affidavit by David Robare, dated July 30, 2002

cc: AB Wang – USNRC
JF Klapproth
I Nir
PT Tran

General Electric Company
AFFIDAVIT

I, David J. Robare, state as follows:

(1) I am Technical Projects 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 Enclosure 1 to MFN 02-042, George Stramback to NRC, *Presentation Material on the GE Proprietary Licensing Report NEDC-33075P, "General Electric Boiling Water Reactor Detect and Suppress Solution-Confirmation Density"*, dated July 30, 2002. The entire presentation (Enlosure 1) is GE proprietary.

(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. GE has received US patent #6,173,026 covering this subject matter.

The information sought to be withheld is considered to be proprietary for the reasons set forth in both paragraphs (4)a., 4(b) and (4)e., 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) The information identified in paragraph (2), above, is classified as proprietary because it contains detailed results of analytical models, methods and processes, including computer codes, which GE has developed, and applied to perform stability evaluations using the detection and suppression capability of the confirmation density algorithm for the BWR.

The development of the detection and suppression capability of the confirmation density algorithm for the BWR was achieved at a significant cost, in excess of ¼ million dollars, to GE.

The development of the evaluation process along with the interpretation and application of the analytical results is derived from the extensive experience database that constitutes a major GE asset.

(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.

I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

Executed on this 30TH day of JULY 2002.

David J. Robare

David J. Robare
General Electric Company