

October 2, 2002

Mr. George B. Stramback  
General Electric Company  
Project Manager, Regulatory Services  
175 Curtner Avenue  
San Jose, CA 95125

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
- PILGRIM NUCLEAR POWER STATION (TAC NO. MB5603)

Dear Mr. Stramback:

By application dated July 5, 2002, Entergy Nuclear Operations, Inc. (ENO), requested an amendment to the Pilgrim Nuclear Power Station (Pilgrim) operating license and Technical Specifications (TSs) to allow an increase in the licensed power level. The application included a General Electric (GE) proprietary document, NEDC-33050P, "Safety Analysis Report for Pilgrim Nuclear Power Station Thermal Power Optimization," dated July 2002. That document included your affidavit dated July 2, 2002, requesting that the document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790(a)(4), 2.790(d)(1), and 9.17(a)(4). A nonproprietary version, dated August 29, 2002, has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room under the accession number ML022480219.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- 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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have concluded that you have not provided sufficient justification for us to determine that the information sought to be withheld from public disclosure contains proprietary, or confidential commercial or financial information. Specifically, NEDC-33050P contains information that is sought to be withheld which is known to have already been disclosed to the public. As an example, GE claims that the following material (page 3-1 of NEDC-33050P) is independently proprietary:

There are no changes in the SRV [safety relief valve] or safety valve setpoints or valve out-of-service options; however, the total SRV capacity will be increased by increasing the existing SRV throat diameters.

This material is contained in Pilgrim TS limiting condition for operation 3.6.D and is also in License Amendment No. 149, which was issued by the NRC staff on September 28, 1993, and distributed to the public.

Moreover, as noted in paragraph (8) of your July 2, 2002, affidavit, the remainder of NEDC-33050P (that portion of the report not delineated with bars marked in the margins) is claimed to be proprietary because it constitutes a confidential compilation of information. NEDC-33050P contains numerous instances where information that is sought to be withheld in accordance with paragraph (8) is known to have already been disclosed to the public. Based on GE's claims, the following material (page 3-1 of NEDC-33050P) is proprietary:

The RPV [reactor pressure vessel] structure and support components form a pressure boundary to contain reactor coolant and moderator, and form a boundary against leakage of radioactive materials into the drywell. The RPV also provides structural support for the reactor core and internals.

The above material is contained in the Pilgrim Updated Final Safety Analysis Report, Section 4.2, "Reactor Vessel and Appurtenances Mechanical Design," which has been made public. There are other examples of material in the report which are claimed to be proprietary, but are well known in the industry and have been made public. Additionally, NEDC-33050P contains information disclosing a methodology that is sought to be withheld which is a well known commercial methodology. Accordingly, the NRC staff does not agree that these statements contain trade secrets or privileged or confidential commercial information in accordance with 10 CFR 2.790 (b)(4)(iv).

Since the non-proprietary version of the document, NEDO-33050, contains inadequate information to support the proposed Pilgrim power uprate, and because the NRC staff cannot confidently divulge any part of NEDC-33050P, the NRC staff concludes that it cannot inform the public as to the bases, if any, for approval of the proposed power uprate.

Accordingly, we have concluded that the information sought to be withheld from public disclosure does not meet the requirements of 10 CFR 2.790. Therefore, your request to withhold NEDC-33050P from public disclosure is denied. As such, you may provide the NRC staff with additional justification of why the entire document is proprietary. Should you decide to resubmit NEDC-33050P, we request that you limit the scope of the information that you seek to withhold from public disclosure to those pieces of information that meet the requirements of 10 CFR 2.790. In addition, should you decide to resubmit NEDC-33050P, we request that the companion non-proprietary report be a simple redaction of NEDC-33050P.

In 30 days from the date of this letter, the subject documents will be placed in the NRC's Public Document Room. If, within 30 days of the date of this letter, you request withdrawal of the documents in accordance with 10 CFR 2.790(c), your request will be considered in light of applicable statutes and regulations, and a determination made whether the documents will be withheld from public disclosure and returned to you.

If you have any questions regarding this matter, I may be reached at (301) 415-8474.

Sincerely,

**/RA/**

Travis L. Tate, Project Manager, Section 2  
Project Directorate I  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket No. 50-293

cc: See next page

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Pilgrim Nuclear Power Station

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