

November 20, 2002

Mr. C. J. Deacon, Manager
Advanced Reactor Programs
General Electric Company
175 Curtner Avenue, M/C 365
San Jose, CA 95125-1014

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(MFN-02-051, MFN-02-052, MFN-02-053, MFN-02-054, MFN-02-055,
AND MFN-02-056)

Dear Mr. Deacon:

By applications dated August 30, 2002 (MFN-02-051, MFN-02-052, MFN-02-053, MFN-02-054, MFN-02-055, and MFN-02-056), and associated affidavits executed by Mr. George B. Stramback on August 29, August 29, August 30, August 30, August 29, and August 30, 2002, respectively, you submitted the proprietary topical reports entitled NEDC-33084P, "ESBWR Design Description;" NEDC-33079P and Supplement 1, "ESBWR Test and Analysis Program Description;" NEDC-32725P, Revision 1, "TRACG Qualification for SBWR Vol. 1 and 2;" NEDC-33080P, "TRACG Qualification for ESBWR;" NEDC-32606P, "SBWR Testing Summary Report;" and NEDC-33081P, "ESBWR Test Report," and requested that these documents be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations*, Section 2.790 (10 CFR 2.790). You have committed to submit non-proprietary versions of these documents by {DATE TBD} which will be placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and will be added to the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room.

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

- (1) the information 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;
- (2) the information, 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;
- (3) the information reveals aspects of past, present, or future General Electric customer-funded development plans and programs, of potential commercial value to General Electric; and
- (4) the information discloses a patentable subject matter for which it may be desirable to obtain patent protection. GE is pursuing patent applications in the U.S. Patent Office.

We have reviewed your applications and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the versions of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You should also understand that the NRC may have cause to review this determination in the future; for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-2875.

Sincerely,

/RA/

Amy E. Cubbage, ESBWR Project Manager
New Reactor Licensing Project Office
Office of Nuclear Reactor Regulation

Project No. 717

cc: See next page

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/RA/

Amy E. Cubbage, ESBWR Project Manager
New Reactor Licensing Project Office
Office of Nuclear Reactor Regulation

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ESBWR

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