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September 24, 2002

U.S. Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, DC 20555

Peach Bottom Atomic Power Station, Units 2 & 3  
Facility Operating License Nos. DPR-44 and DPR-56  
NRC Docket Nos. 50-277 and 50-278

**SUBJECT:** Submittal of Peach Bottom Atomic Power Station, Units 2 & 3, Safety Analysis Report, Revision 1, Appendix K Measurement Uncertainty Recovery Power Uprate (License Amendment Request 01-01190)

**REFERENCE:**

1. Letter from Exelon to US NRC, dated May 24, 2002, "License Amendment Request 01-01190, Power Uprate Request for Appendix K Measurement Uncertainty Recapture"
2. Letter from Exelon to US NRC, dated June 27, 2002, "Transmittal of Non-Proprietary General Electric Topical Safety Analysis Report for Peach Bottom Atomic Power Station Units 2 & 3, NEDO-33064"
3. Letter from Exelon to US NRC, dated September 11, 2002, "Response to the Request for Additional Information Regarding License Amendment Request 01-01190, Power Uprate Request for Appendix K Measurement Uncertainty Recapture"
4. Letter from US NRC to General Electric Company, dated September 9, 2002, "Request for Withholding Information from Public Disclosure"

Dear Sir or Madam:

Exelon Generation Company, LLC (Exelon), in Reference 1, requested approval of changes to the Peach Bottom Atomic Power Station, Units 2 & 3, Operating License and Technical Specifications associated with an increase in the licensed power level. As a part of that original submittal, a Thermal Power Optimization Safety Analysis Report (TSAR), NEDC-33064P, was provided as Attachment 2. That document was noted to be a proprietary report; a non-proprietary version of the TSAR was submitted under Reference 2.

Exelon and General Electric (GE) have discussed the classification of the proprietary information in the report with the NRC staff. An Errata and Addenda to the TSAR was prepared and submitted in Reference 3. This, however, did not resolve all of the NRC concerns with the proprietary information for the PBAPS license amendment request. In reference 4, the NRC denied the GE request for withholding the TSAR from public disclosure.

APO1

Submittal of PBAPS TSAR, Rev. 1  
Supplement to PBAPS Units 2 & 3 LAR 01-01190  
September 24, 2002  
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Attached are a proprietary and a non-proprietary version of Revision 1 to the TSAR. This revision supersedes the TSAR and changes transmitted in References 1 through 3. GE will withdraw the proprietary version of the TSAR and the TSAR Errata and Addenda under separate correspondence. Note that the Errata and Addenda has been incorporated and that there are no other text changes made in this revision to the TSAR; only the designation (i.e., margin bars) of proprietary information has been revised.

Attachment 1 includes information considered to be proprietary to General Electric. It is requested that the document in this attachment be withheld from public disclosure pursuant to 10 CFR 2.790. An affidavit signed by an officer of General Electric is provided in the front of the document. The address of General Electric is provided in the cover page of the report included in Attachment 1.

There are no new commitments made in this letter.

If you have any questions or require additional information, please contact me at (610) 765-5664.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully,

Executed on

9-24-02



Michael P. Gallagher  
Director, Licensing and Regulatory Affairs  
Mid-Atlantic Regional Operating Group

Enclosures: Attachment 1: GE Safety Analysis Report for PBAPS Units 2 & 3,  
NEDC-33064P, Revision 1 (Proprietary)  
Attachment 2: GE Safety Analysis Report for PBAPS Units 2 & 3,  
NEDO-33064, Revision 1 (Non-Proprietary)

cc: H. J. Miller, Administrator, Region I, USNRC  
A. C. McMurtray, USNRC Senior Resident Inspector, PBAPS  
J. Boska, Senior Project Manager, USNRC (by FedEx)  
R. R. Janati - Commonwealth of Pennsylvania

# General Electric Company

## AFFIDAVIT

I, **George B. Stramback**, state as follows:

- (1) I am Project Manager, Regulatory 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 the GE proprietary report NEDC-33064P, *Safety Analysis Report for Peach Bottom Atomic Power Station Units 2 & 3 Thermal Power Optimization*, Class III (GE Proprietary Information), Revision 1, dated September 2002. The proprietary information is identified by bars marked in the margin adjacent to the specific material.
- (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) 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, obtained NRC approval of, and applied to perform evaluations of transient and accident events in the GE Boiling Water Reactor ("BWR").

The development and approval of these system, component, and thermal hydraulic models and computer codes was achieved at a significant cost to GE, on the order of several million dollars.

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.

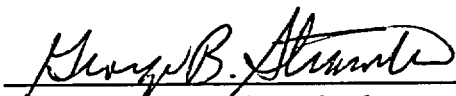
The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

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 18<sup>th</sup> day of September 2002.

  
George B. Stramback  
General Electric Company