

March 31, 2003

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-03-002)

Dear Mr. Deacon:

By application dated January 8, 2003 (MFN-03-002), and associated affidavit executed by Mr. George B. Stramback on January 9, 2003, you submitted the proprietary topical report entitled NEDC-33082P, "ESBWR Scaling Report." You requested that this document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations*, (10 CFR) Section 2.790. You have committed to submit a non-proprietary version of this document by March 10, 2003, 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 affidavit 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 Company's (GE's) competitors without license from GE 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 GE customer-funded development plans and programs, of potential commercial value to GE; 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 United States Patent Office.

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 determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the version 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 be made available for public inspection, you should promptly notify the Nuclear Regulatory Commission (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. Cabbage, ESBWR Project Manager  
New Reactor Licensing Project Office  
Office of Nuclear Reactor Regulation

Project No. 717

cc: See next page

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Sincerely,

*/RA/*

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

Project No. 717

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ESBWR

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