

March 20, 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
ASSOCIATED WITH "ERRATA FOR TRACG APPLICATION FOR ESBWR,
NEDC-33083P (MFN-02-096)"

Dear Mr. Deacon:

By affidavit dated November 18, 2002, Mr. George B. Stramback of GE Nuclear Energy, submitted the proprietary topical report entitled, "TRACG Application for ESBWR, NEDC-33083P - Document Transmittal for Pre-Application Review of ESBWR," MFN-02-090, and requested that it be withheld as containing proprietary information. By letter dated December 2, 2002, the NRC responded and agreed that the portions of the document to be withheld as proprietary information does, in fact, contain proprietary information.

By application MFN 02-096, dated December 19, 2002, and associated affidavit executed by George B. Stramback on December 18, 2002, you submitted change papers to the November 18, 2002, application entitled, "Errata for TRACG Application for ESBWR, NEDC-33083P - Document Transmittal for Pre-Application Review of ESBWR." You requested that this document 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 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'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 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 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 301-415-1186.

Sincerely,

/RA/

Leslie C. Fields, ESBWR Project Manager
New Reactor Licensing Project Office
Office of Nuclear Reactor Regulation

Project No. 717

cc: See next page

- (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.

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Sincerely,

/RA/

Leslie C. Fields, ESBWR Project Manager
New Reactor Licensing Project Office
Office of Nuclear Reactor Regulation

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ESBWR

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