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MFN 03-028  
April 21, 2003

U.S Nuclear Regulatory Commission  
Document Control Desk  
Washington, D.C. 20852-2738

Attention: Chief, Information Management Branch  
Program Management  
Policy Development and Analysis Staff

Subject: **TRACG Analysis for MELLLA+ and DSS-CD LTR Review – Proprietary Information (TAC Nos. MB6157 & MB5705)**

By Reference 1, GE granted the NRC permission to execute the TRACG02A code for the purposes of reviewing the Licensing Topical Reports (LTR) related to Maximum Extended Load Line Limit Analysis Plus (MELLLA+) and Detect and Suppress Solution – Confirmation Density (DSS-CD) (References 2 and 3). Discussions with representatives of the NRC Staff indicate some difficulties in executing the input files provided by Reference 1 when using the TRACG02A code. Enclosed is a compact disk containing enhanced TRACG code files that GE believes may resolve the difficulties. By this transmittal, the NRC is granted permission to execute the enclosed enhanced TRACG code for the purposes of reviewing the aforementioned LTRs.

Also, enclosed is second compact disk containing the TRACG Graphical Output for the MSIVC ATWS Case. This compact disk is a duplicate of the disk transmitted by Reference 4 and will allow a review of the output in the event that difficulties are also encountered with the execution of the enclosed enhanced TRACG code.

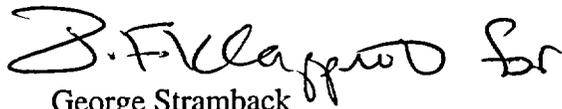
The compact disks of Enclosures 1 and 2 contain proprietary information defined by 10CFR2.790. GE customarily maintains this information in confidence and withholds it from public disclosure.

The affidavit contained in Enclosure 3 identifies that the designated information has been handled and classified as proprietary by GE. GE hereby requests that the designated information be withheld from public disclosure in accordance with the provisions of 10CFR 2.790 and 9.17.

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If you have any questions, please contact Tony Nakanishi at (408) 925-2051 or myself.

Sincerely,



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Project No. 710

References:

1. MFN 03-001, Letter from George Stramback (GE) to NRC, dated January 14, 2003, *Response to Request for TRACG Analysis Inputs for MELLLA+ and DSS-CD LTR Review*
2. MFN 02-050, Letter from George Stramback (GE) to NRC, August 23, 2002, *Submittal of GE Proprietary Licensing Topical Report NEDC-33006P, Revision 1, General Electric Boiling Water Reactor Maximum Extended Load Line Limit Analysis Plus, August 2002*
3. MFN 02-087, Letter from George Stramback (GE) to NRC, November 6, 2002, *Submittal of GE Proprietary Licensing Topical Report NEDC-33075P, Revision 2, General Electric Boiling Water Reactor Detect and Suppress Solution – Confirmation Density, November 2002*
4. MFN 03-024, Letter from George Stramback (GE) to NRC, dated April 10, 2003, *TRACG Graphical Output for the MSIVC ATWS Case – Proprietary Information*

Enclosures:

1. Compact Disk, TRACG Code Files – Proprietary Information
2. Compact Disk, TRACG Graphical Output for the MSIVC ATWS Case – Proprietary Information
3. Proprietary Affidavit

cc: AB Wang (NRC)  
MA Lalor (GE/San Jose)  
JF Klapproth (GE/San Jose)  
Tony Nakanishi (GE/San Jose)  
Israel Nir (GE/San Jose)

ENCLOSURE 1

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COMPACT DISK

TRACG CODE FILES

ENCLOSURE 2

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COMPACT DISK

TRACG GRAPHICAL OUTPUT for the MSIVC ATWS Case

ENCLOSURE 3

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PROPRIETARY AFFIDAVIT

# General Electric Company

## AFFIDAVIT

I, **James F. Klapproth**, state as follows:

- (1) I am Manager, Engineering and Technology, 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 compact disks contained in Enclosures 1 and 2 of GE letter, *MFN 03-028, TRACG Analysis for MELLLA+ and DSS-CD LTR Review – Proprietary Information*, dated April 21, 2003. The proprietary information is the electronic files in the Enclosure 1, *Compact Disk, TRACG Code Files*; and Enclosure 2, *Compact Disk, TRACG Graphical Output for the MSIVC ATWS Case*.
- (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. GE has received US patent #6,173,026 covering the stability subject matter and has filed a patent application, which is pending in the US Patent Office and has not been published yet, for the MELLLA+ subject matter..

The information sought to be withheld is considered to be proprietary for the reasons set forth in both paragraphs (4)a., 4(b) and (4)e., 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 information supporting the previous proprietary

submittal of NEDC-33006P, Revision 1, *General Electric Boiling Water Reactor Maximum Extended Load Line Limit Analysis Plus*, which describes results and conclusions from evaluations, utilizing analytical models and methods, 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 systems, component, and thermal hydraulic models and computer codes was achieved at a significant cost to GE, on the order of several million dollars. The proprietary information also contains detailed information supporting the previous proprietary submittal of NEDC-33075P, Revision 2, *General Electric Boiling Water Reactor Detect and Suppress Solution – Confirmation Density*, which describes results of analytical models, methods and processes, including computer codes, which GE has developed, and applied to perform stability evaluations using the detection and suppression capability of the confirmation density algorithm for the BWR.

The development of the detection and suppression capability of the confirmation density algorithm for the BWR was achieved at a significant cost, in excess of ¼ million dollars, to GE.

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 21<sup>st</sup> day of April 2003.



James F. Klapproth  
General Electric Company