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RS-03-136

July 9, 2003

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

Dresden Nuclear Power Station, Units 2 and 3
Facility Operating License Nos. DPR-19 and DPR-25
NRC Docket Nos. 50-237 and 50-249

Quad Cities Nuclear Power Station, Units 1 and 2
Facility Operating License Nos. DPR-29 and DPR-30
NRC Docket Nos. 50-254 and 50-265

Subject: Request to Withhold Information from Public Disclosure

A meeting between Exelon Generation Company, LLC (EGC) and the NRC is currently scheduled for July 25, 2003. The purpose of the meeting is to discuss the results of our root cause determination and extent of condition review related to the steam dryer degradation identified at Quad Cities Nuclear Power Station (QCNPS), Unit 2.

Some of the information that will be presented to the NRC during the July 25, 2003, meeting is classified as proprietary to General Electric Company (GE). The proprietary information is of the type that GE maintains in confidence and withholds from public disclosure. Therefore, in accordance with 10 CFR 2.790, "Public inspections, exemptions, requests for withholding," portions of the meeting should be closed to the public and the presentation material should be withheld from public disclosure.

To support NRC efforts to prepare a meeting notice for the July 25, 2003, meeting, the NRC has requested EGC to submit an example of typical presentation slides that will be used during the meeting. The NRC will use this information to determine if the presentation material contains proprietary commercial information that should be withheld from public disclosure.

Attachment 1 contains the requested information. This information is preliminary draft and not verified, but is typical of the type of material we will present during the July 25, 2003, meeting. Certain information in Attachment 1 is classified as proprietary to GE, and is identified by pages annotated with "GE Proprietary Information." It has been handled and classified as proprietary as supported by the affidavit in Attachment 2. EGC hereby requests that this information be withheld from public disclosure in

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accordance with the provisions of 10 CFR 2.790. As mentioned in Attachment 1, GE requests that the sample material be returned at the meeting.

If you have any questions or require additional information, please contact Mr. Kenneth M. Nicely at (630) 657-2803.

Respectfully,

A handwritten signature in black ink that reads "Patrick R. Simpson". The signature is written in a cursive style with a large initial "P" and "S".

Patrick R. Simpson
Manager – Licensing
Mid-West Regional Operating Group

Attachments:

1. Example Presentation **[PROPRIETARY]**
2. General Electric Affidavit

ATTACHMENT 2

General Electric Affidavit

General Electric Company

AFFIDAVIT

I, James F. Klapproth, state as follows:

- (1) I am Manager, Engineering & 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 Attachment 1 to GE letter DJB03001, Daryl Bouchie (GE) to Pat Simpson (Exelon), *Typical Presentation Slides to be used at the July 25, 2003, NRC Meeting*, dated July 9, 2003. The proprietary information is contained in the Attachment 1, *Typical Presentation Slides to be used at the July 25, 2003, NRC Meeting*, on the slides that contain the designation "GE Proprietary Information."
- (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), and 2.790(a)(4) for "trade secrets" (Exemption 4). The material for which exemption from disclosure is here sought 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 aspects of past, present, or future General Electric customer-funded development plans and programs, resulting in potential products to General Electric;

- d. 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 paragraphs (4)a., and (4)b, above.

- (5) To address 10 CFR 2.790 (b) (4), 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 and conclusions from evaluations of the Steam Dryer analyses and repairs utilizing inspection techniques, testing, analytical models and methods, including computer codes, which GE has developed. The development of these models and computer codes was achieved at a significant cost to GE, on the order of a few hundred thousand dollars.

The development of the evaluation process along with the interpretation and application of the inspection and 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 9th day of July 2003.


James F. Klapproth
General Electric Company