Entergy

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July 24, 2003
BVY 03-66

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

Subject: **Vermont Yankee Nuclear Power Station**
License No. DPR-28 (Docket No. 50-271)
Technical Specification Proposed Change No. 258
RPV Fracture Toughness and Material Surveillance Requirements
Additional Information – Neutron Flux Evaluation

Per discussion with your staff, we are providing additional information that was requested to assist in your review of our request for a License Amendment. This supplemental information does not affect or alter the scope or conclusion of no significant hazards determined in our original submittal.

Attachment 1 to this letter is a proprietary General Electric Report, GE-NE-0000-0007-2342-R1-P, "Entergy Northeast Vermont Yankee - Neutron Flux Evaluation." This evaluation, performed by General Electric for Vermont Yankee, is considered proprietary information by General Electric. In accordance with 10CFR2.790(b)(1), an affidavit attesting to the proprietary nature of the information (report) is enclosed with Attachment 1.

Attachment 2 is a non-proprietary version of the same General Electric Report. The bracketed proprietary information has been removed from this version of the report.

This evaluation is submitted in support of this licensing action and it is not Vermont Yankee's intention to maintain the docket current with regard to future revisions to this evaluation.

If you have any questions concerning this submittal or desire additional information, please contact Ronda Daflucas at (802) 258-4232.

Sincerely,

Jay K. Thayer
Site Vice President

SALLY A. SANDSTRUM NOTARY PUBLIC WINDHAM COUNTY VERMONT

STATE OF VERMONT)
)ss
WINDHAM COUNTY)

Then personally appeared before me, Jay K. Thayer, who, being duly sworn, did state that he is Site Vice President of the Vermont Yankee Nuclear Power Station, that he is duly authorized to execute and file the foregoing document, and that the statements therein are true to the best of his knowledge and belief.

Sally A. Sandstrum, Notary Public
My Commission Expires February 10, 2007

Attachments

cc: USNRC Region 1 Administrator
USNRC Project Manager – VYNPS
USNRC Resident Inspector – VYNPS
Vermont Department of Public Service (w/o attachment #1 – proprietary information)

Docket No. 50-271
BVY 03-66

Attachment 1

Vermont Yankee Nuclear Power Station

Technical Specification Proposed Change No. 258

Additional Information

Entergy Northeast Vermont Yankee Neutron Flux Evaluation

(PROPRIETARY INFORMATION)

General Electric Company

AFFIDAVIT

I, David J. Robare, state as follows:

(1) I am Technical Projects Manager, Technical 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 GE-NE-0000-0007-2342-R1, Entergy Northeast Vermont Yankee Neutron Flux Evaluations, Revision 1, Class III (GE Proprietary Information), dated July 2003. The proprietary information is delineated by a double underline inside double square brackets. In each case, the superscript notation[3] refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.

(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 of analytical models, methods and processes, including computer codes, which GE has developed and applied to perform fluence evaluations for the BWR.

The development of fluence estimation methodology that are used to evaluate BWRs was achieved at a significant cost, on the order of one million dollars, to GE.

(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 17TH day of JULY 2003.

David J. Robare
General Electric Company

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Attachment 2

Vermont Yankee Nuclear Power Station

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(NON-PROPRIETARY INFORMATION)