



Entergy Nuclear Vermont Yankee, LLC  
Entergy Nuclear Operations, Inc.  
185 Old Ferry Road  
Brattleboro, VT 05302-0500

March 4, 2004  
BVY 04-025

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. 263 - Supplement No. 6  
Extended Power Uprate – Withholding Proprietary Information**

By letter dated January 31, 2004<sup>1</sup>, Vermont Yankee<sup>2</sup> (VY) supplemented its application for a license amendment to increase the maximum authorized power level for the Vermont Yankee Nuclear Power Station (VYNPS) from 1593 megawatts thermal (MWt) to 1912 MWt. The information provided on January 31, 2004, consisted of VY's response to a draft NRC request for additional information (RAI). Certain RAI responses contained proprietary information. Upon subsequent review of the information provided to the NRC staff, General Electric Company (GE) identified an instance where a response to one of the RAI questions contained proprietary information that was not properly marked proprietary and was not covered by an affidavit requesting disclosure protection in accordance with 10CFR2.790. VY immediately notified the NRC Project Manager for VYNPS of the oversight, and actions were taken to withdraw the identified proprietary information from public disclosure.

The subject proprietary information is contained within the response to RAI EMCB-B 1 and is located on page 13 of 120 in Attachment 1 to the January 31, 2004 supplement. To remedy this situation, VY is providing three attachments to this letter.

Attachment 1 to this letter provides a replacement page 13 of Attachment 1 to the January 31, 2004 submittal. This revision clearly delineates the proprietary information within double brackets and by double underline. The proprietary information is also annotated with the superscript notation<sup>(3)</sup>, which refers to Paragraph (3) of GE's attached affidavit (Attachment 3 to this letter).

<sup>1</sup> Vermont Yankee letter to U.S. Nuclear Regulatory Commission, "Technical Specification Proposed Change No. 263, Supplement No. 5, Extended Power Uprate – Response to Request for Additional Information," BVY 04-008, January 31, 2004.

<sup>2</sup> Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. are the licensees of the Vermont Yankee Nuclear Power Station.

AP01

Attachment 2 to this letter provides a replacement page 13 of Attachment 2 to the January 31, 2004 submittal. Attachment 2 is the non-proprietary version of Attachment 1 with the proprietary information removed.

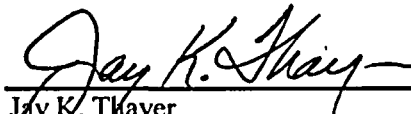
Attachment 3 to this letter provides an affidavit by GE that constitutes a request for withholding the subject proprietary information from public disclosure.

Attachment 1 to this letter contains proprietary information as defined by 10CFR2.790. GE, as the owner of the proprietary information, has executed the affidavit which states that the enclosed proprietary information has been handled and classified as proprietary, is customarily held in confidence, and has been withheld from public disclosure. The subject proprietary information was provided to VY in a GE transmittal that is referenced by the affidavit. The proprietary information has been faithfully reproduced in Attachment 1 to this letter such that the affidavit remains applicable. GE requests that the identified proprietary information be withheld from public disclosure in accordance with the provisions of 10CFR2.790 and 10CFR9.17.

This supplement to the license amendment request does not change the scope or conclusions in the original application, nor does it change VY's determination of no significant hazards consideration.

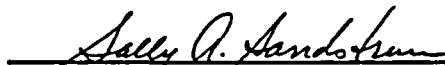
If you have any questions, please contact Mr. James DeVincentis at (802) 258-4236.

Sincerely,

  
\_\_\_\_\_  
Jay K. Thayer  
Site Vice President

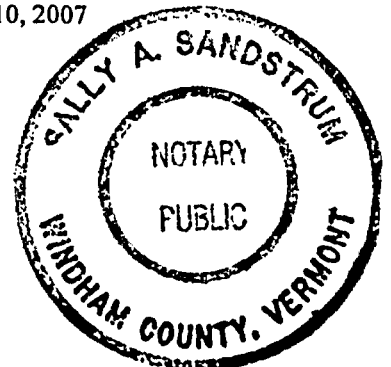
STATE OF VERMONT        )  
                                  )ss  
WINDHAM COUNTY        )

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 (3)

- cc: USNRC Region I Administrator (w/o attachments)
- USNRC Resident Inspector – VYNPS (w/o attachments)
- USNRC Project Manager – VYNPS
- Vermont Department of Public Service (w/o proprietary information)



Docket No. 50-271  
BVY 04-025

Attachment No. 3

Vermont Yankee Nuclear Power Station

Technical Specification Proposed Change No. 263

Supplement No. 6

Extended Power Uprate – Withholding Proprietary Information

GE Affidavit

# General Electric Company

## AFFIDAVIT

I, George B. Stramback, state as follows:

- (1) I am Manager, Regulatory 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 Enclosure 1 to GE letter GE-VYNPS-AEP-317, Michael Dick (GE) to Craig Nichols (ENOI), *VYNPS Constant Pressure Power Uprate – Protection of GENE Proprietary Information Not Identified in VY letter BVY 04-008*, dated February 18, 2004. The Enclosure 1, *RAI EMCB-B1*, proprietary information is delineated by a double underline inside double square brackets. In each case, the superscript notation<sup>(3)</sup> 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 information as contained in the proprietary reference NEDC-33090P, *Safety Analysis Report for Vermont Yankee Nuclear Power Station Constant Pressure Power Uprate, Class III (GE Proprietary Information)*, Revision 0, dated September 2003, which was submitted to the NRC. This power uprate report contains detailed results and conclusions from evaluations of the safety-significant changes necessary to demonstrate the regulatory acceptability for the power uprate of a GE BWR, utilizing analytical models, methods and processes, including computer codes, which GE has developed, obtained NRC approval of and applied to perform evaluations of the transient and accident events in the GE Boiling Water Reactor ("BWR"). The development and approval of these system, component, and thermal hydraulic models and computer codes was achieved at a significant cost to GE, on the order of several million dollars.

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.

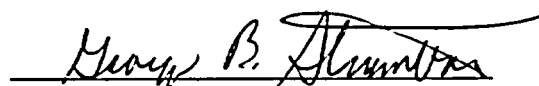
The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

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 18<sup>th</sup> day of February 2004.

  
George B. Stramback  
General Electric Company

Attachment No. 2

Vermont Yankee Nuclear Power Station

Technical Specification Proposed Change No. 263

Supplement No. 6

Extended Power Uprate – Withholding Proprietary Information

(Non-Proprietary) Replacement Page 13

**BVY 04-008 Attachment 2 - CPPU Submittal RAI Response  
Non-Proprietary Information**

**EMCB-A 2**

Section 10.7, "Plant Life," of Attachment 6 to your submittal dated September 10, 2003, identifies irradiation-assisted stress-corrosion cracking (IASCC) as a degradation mechanism influenced by increases in neutron fluence. This section indicates that the current inspection strategy for reactor internal components is expected to be adequate to manage any potential effects of CPPU. Note 1 in Matrix 1 of Section 2.1 of RS-001, Revision 0 indicates guidance on the neutron irradiation-related threshold for inspection for IASCC in BWRs is in Boiling Water Reactor Vessel and Internals Program (BWRVIP) report BWRVIP-26. The "Final License Renewal SER for BWRVIP-26," dated December 7, 2000, states that the threshold fluence level for IASCC is  $5 \times 10^{20}$  n/cm<sup>2</sup> (E > 1 MeV). Identify the vessel internal components whose fluence at the end of period of operation with CPPU conditions will exceed the threshold level and become susceptible to cracking due to IASCC. For each vessel internals component that exceeds the IASCC threshold, either provide an analysis that demonstrates failure of the component will not result in the loss of the intended function of the reactor internals or identify the inspection program to be utilized to manage IASCC of the component. Identify the scope, sample size, inspection method, frequency of examination and acceptance criteria for the inspection programs.

**Response:**

Of the reactor vessel internal components, only the top guide's integrated flux will exceed  $5 \times 10^{20}$  n/cm<sup>2</sup>.

VY will commence inspection of critical top guide components in the refueling outage following power uprate. Enhanced Visual Testing (EVT)-1 of top guide grid beams will be performed in accordance with SIL 554 following the sample selection and inspection frequency of BWRVIP-47 for the CRD guide tubes. In other words, VY will perform inspection of 10% of the total population of cells within twelve years, with one-half (5%) to be completed within six years. The six-year intervals at Vermont Yankee will be defined to be the same as those for the CRD guide tubes. Selection of the cells will be biased to the highest fluence areas in the top guide. However, Vermont Yankee reserves the right to modify the above inspection program should BWRVIP-26 be revised in the future.

**EMCB-B 1**

Section 3.5.1 of Attachment 4 of your submittal dated September 10, 2003, provides the results of the structural evaluation of the reactor coolant pressure boundary (RCPB) piping. Provide the basis for the disposition of the first system listed in this section.

**Response:**

The Reactor Recirculation (RR) piping system is [[

]] is that for the RR system, there is no significant change in temperature, pressure and flow rate for the RR piping system resulting from CPPU. For Vermont Yankee, the RR system is [[

]] since the temperature, pressure, and flow rate changes resulting from CPPU are insignificant. The RR operating temperature will decrease slightly (by less than 1 percent). The RR operating pressure changes by less than 1 percent (RR pump suction pressure decreases by less than one percent and RR pump discharge pressure increases by less than one percent). The RR flow rate which increases slightly (by less than 2 percent) is acceptable since this system does not contain any fast closing valves. In summary, the temperature, pressure and flow rate changes are very minor and do not significantly impact the existing piping system qualification.