

August 5, 2004

Mr. George B. Stramback
Manager, Regulatory Services
General Electric Company
175 Curtner Avenue
San Jose, CA 95125

SUBJECT: GE NUCLEAR ENERGY AND PSEG NUCLEAR, LLC, REQUEST FOR
WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR HOPE
CREEK GENERATING STATION (TAC MC1682)

Dear Mr. Stramback:

By letter dated June 8, 2004, PSEG Nuclear, LLC (PSEG) submitted a response to a Nuclear Regulatory Commission (NRC) request for additional information (RAI) related to PSEG's planned use of GE-14 fuel at Hope Creek Generating Station (Hope Creek). That RAI response included information that was designated as being proprietary to General Electric Nuclear Energy (GE). The PSEG June 8, 2004, letter included an affidavit that you executed on May 28, 2004, which requested that information contained in "Attachment 2 to GE letter GE-KT29698-029, E.G. Thacker (GE) to D.V. Notigan (PSEG), *GE Response to RAIs 1 and 2*, dated May 28, 2004," be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 390.

A nonproprietary copy of the PSEG June 8, 2004, letter has been placed in the NRC's Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

During the staff's review, it was identified that the document named in the May 28, 2004 affidavit is not the same as the docketed attachment that actually contained the information that is designated as being proprietary. Although the PSEG cover letter stated that the information in the May 28 affidavit was faithfully reproduced, the staff determined that it is necessary for the affidavit to directly identify the document containing information sought to be withheld. By letter dated July 1, 2004, you submitted a revised affidavit that you executed on July 1, 2004, requesting that the following document be withheld from public disclosure pursuant to 10 CFR 2.390:

Attachment 1 to PSEG letter LR-N04-0251, Michael H. Brothers (PSEG) to the NRC, *RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION REQUEST FOR CHANGE TO TECHNICAL SPECIFICATIONS FUEL VENDOR CHANGE HOPE CREEK GENERATING STATION FACILITY OPERATING LICENSE NPF-57 DOCKET NO. 50-354*, dated June 8, 2004.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (1) This information is of the type typically held in confidence by GE, and is in fact so held.
- (2) The information is being transmitted to the NRC in confidence
- (3) The information has not been publically disclosed, nor is it available in public sources
- (4) The information discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GE's competitors constitutes a competitive economic advantage over other companies.
- (5) 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.
- (6) Public disclosure of this information would cause GE to lose its competitive advantage if its competitors were able to use the results to normalize or verify their own process or if they were able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 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 2.390(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 also should 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.

G. Stramback

- 3 -

If you have any questions regarding this matter, I may be reached at 301-415-1427.

Sincerely,

/RA/

Daniel S. Collins, Senior Project Manager, Section 2
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-354

cc: See next page

Hope Creek Generating Station

cc:

Mr. John T. Carlin
Vice President - Nuclear Assessment
PSEG Nuclear - N10
P.O. Box 236
Hancocks Bridge, NJ 08038

Mr. David F. Garchow
Vice President - Engineering/Technical
Support
PSEG Nuclear - N28
P.O. Box 236
Hancocks Bridge, NJ 08038

Mr. Michael Brothers
Vice President - Site Operations
PSEG Nuclear - N10
P.O. Box 236
Hancocks Bridge, NJ 08038

Mr. James A. Hutton
Plant Manager
PSEG Nuclear - X15
P.O. Box 236
Hancocks Bridge, NJ 08038

Mr. Steven Mannon
Acting Manager - Nuclear Safety and
Licensing
PSEG Nuclear - N21
P.O. Box 236
Hancocks Bridge, NJ 08038

Jeffrie J. Keenan, Esquire
PSEG Nuclear - N21
P.O. Box 236
Hancocks Bridge, NJ 08038

Ms. R. A. Kankus
Joint Owner Affairs
Exelon Generation Company, LLC
Nuclear Group Headquarters KSA1-E
200 Exelon Way
Kennett Square, PA 19348

Lower Alloways Creek Township
c/o Mary O. Henderson, Clerk
Municipal Building, P.O. Box 157
Hancocks Bridge, NJ 08038

Dr. Jill Lipoti, Asst. Director
Radiation Protection Programs
NJ Department of Environmental
Protection and Energy
CN 415
Trenton, NJ 08625-0415

Brian Beam
Board of Public Utilities
2 Gateway Center, Tenth Floor
Newark, NJ 07102

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Senior Resident Inspector
Hope Creek Generating Station
U.S. Nuclear Regulatory Commission
Drawer 0509
Hancocks Bridge, NJ 08038

G. Stramback

- 3 -

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Sincerely,

/RA/

Daniel S. Collins, Senior Project Manager, Section 2
Project Directorate I
Division of Licensing Project Management
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cc: See next page

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