

September 22, 2004

Dr. Robert E. Gamble  
Manager, ESBWR  
General Electric Company  
175 Curtner Avenue, M/C 365  
San Jose, CA 95125-1014

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
FOR SEPTEMBER 29, 2004, MEETING (MFN 04-101)

Dear Dr. Gamble:

By letter dated September 17, 2004, and associated affidavit executed on September 17, 2004, by George B. Stramback, you indicated that you hold the information to be discussed during a meeting scheduled for September 29, 2004, to be proprietary. You requested that these discussions be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations*, Section 2.390 (10 CFR 2.390). The purpose of the September 29, 2004, meeting is to discuss the ESBWR pre-application review, specifically, proposed proprietary topical reports regarding the application of the TRACG code to analyses of ESBWR thermal-hydraulic stability and anticipated transients without scram that you are planning to submit in late-October and mid-November 2004, respectively. You requested that this information be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations*, Section 2.390 (10 CFR 2.390).

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

- (1) The information discloses a process, method, or apparatus including supporting data and analyses, where prevention of its use by General Electric Company's competitors without license from General Electric constitutes a competitive economic advantage over other companies; and
- (2) 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.

We have reviewed your letter and affidavit in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the information to be discussed at the September 29, 2004, meeting sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the portions of the meeting on September 29, 2004, when this proprietary information will be discussed will be closed to the public. A portion of the meeting on September 29, 2004, in which no proprietary information is planned to be discussed, will be open to the public. A non-proprietary summary of the meeting will be prepared and placed in ADAMS.

R. Gamble

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Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the document. 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 should also 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.

If you have any questions regarding this matter, I may be reached at 301-415-2875.

Sincerely,

*/RA/*

Amy E. Cabbage, ESBWR Project Manager  
New Reactors Section  
New, Research and Test Reactors Program  
Division of Regulatory Improvement Program  
Office of Nuclear Reactor Regulation

Project No. 717

cc: See next page

R. Gamble

-2-

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*/RA/*

Amy E. Cubbage, ESBWR Project Manager  
New Reactors Section  
New, Research and Test Reactors Program  
Division of Regulatory Improvement Program  
Office of Nuclear Reactor Regulation

Project No. 717

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ACCESSION NUMBER: ML042640410

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DATE	9/20/04	9/20/04	9/21/04

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ESBWR

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**SUBJECT:** REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR SEPTEMBER 29, 2004, MEETING (MFN-04-101)

**ORIGINATOR:** A. Cabbage

**SECRETARY:** C. Nagel

**DATE:** September 22, 2004

●●● ROUTING LIST ●●●

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2.	J. Wermiel	/ /04
3.	L. Dudes	/ /04
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