



GE Energy Nuclear

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GE-ENG-DRY-084

May 16, 2005

GE Proprietary Information

To: John Nosko (Exelon)
Authors: Michael J. Dick (GE)
Subject: Exelon Integrated Steam Dryer – May 4th NRC (Rockville) Presentation with GE Proprietary & Non-Proprietary Information

Dear John:

As part of the Exelon Integrated Steam Dryer Project, GE is providing Enclosure 1, a Proprietary Markup of the May 4th Exelon Presentation to the NRC in Rockville, Enclosure 2, a Non-Proprietary version of the May 4th presentation, and Enclosure 3, an affidavit requesting protection of portions of the proprietary presentation, for review by the NRC.

The Enclosure 3 affidavit identifies that the designated information has been handled and classified as proprietary to GE. The designated information is suitable for review by the NRC when accompanied by the attached affidavit. GE hereby requests that the designated information be withheld from public disclosure in accordance with the provisions of 10 CFR 2.390 and 9.17.

GE requests that any transmittal of this proprietary information to the NRC be accompanied by the enclosed affidavit and proprietary notice. In order to maintain the applicability of the affidavit and to meet the requirements of 10CFR2.390, the transmittal to the NRC should:

- 1) faithfully reproduce the proprietary information,
- 2) preserve the proprietary annotations, and
- 3) include the words similar to "GE Proprietary Information" at the top of first page and each page containing the proprietary information.

Based on past discussions with the NRC, GE has been encouraged to request its customers to provide a paragraph similar to the following paragraph for inclusion in their transmittal letters in order to clearly indicate the proprietary nature of the information and to document the source of the proprietary information as indicated in the GE affidavit.

"The attached Exelon presentation contains GE proprietary information as defined by 10CFR2.390. GE, as the owner of the proprietary information, has executed the enclosed affidavit, which identifies that the attached proprietary information has been handled and classified as proprietary, is customarily held in confidence, and has been withheld from public disclosure. The proprietary information was provided to Exelon in a GE transmittal that is referenced by the affidavit. GE hereby requests that the enclosed

proprietary information be withheld from public disclosure in accordance with the provisions of 10 CFR 2.390 and 9.17. A non-proprietary version of the attached presentation also is provided.

Further, 10 CFR 2.390 requires that the proprietary information be incorporated, as far as possible into a separate paper. Therefore, Enclosure 2 hereto contains the non-proprietary and redacted presentation version, and the proprietary information is provided in Enclosure 1. GE requests that the non-proprietary version be a hard copy. If an electronic copy of the non-proprietary information is provided to the NRC, GE requests that the non-proprietary information be removed from the file, not simply hidden with white fonts, hidden text or covered with electronic-drawn boxes, which can be readily defeated to reveal the proprietary information.

If you have any questions related to the enclosures, please contact the undersigned at (910) 675-6691.

Very truly yours,



For Carl Hinds

cc Roman Gesior (Exelon)
Keith Moser (Exelon)
John Dawn (Exelon)

Enclosures:

1. *Proprietary Version of Exelon Presentation, "Quad Cities Nuclear Power Station Steam Dryer Replacement Meeting," May 4, 2005 - Proprietary*
2. *Non-Proprietary Version of Exelon Presentation, "Quad Cities Nuclear Power Station Steam Dryer Replacement Meeting," May 4, 2005 - Non-Proprietary*
3. Affidavit, George B. Stramback, dated May 16, 2005

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 of GE letter GE-ENG-DRY-084, Michael J. Dick (GE) to John Nosko (Exelon), *Proprietary and Non Proprietary Versions of Exelon Presentation, "Quad Cities Nuclear Power Station Steam Dryer Replacement Meeting," May 4, 2005*, dated May 16, 2005. The proprietary information in Enclosure 1, *Proprietary Version of Exelon Presentation, "Quad Cities Nuclear Power Station Steam Dryer Replacement Meeting, May 4, 2005*, is the slide pages that are identified by the marking "GE Proprietary Information⁽³⁾." Paragraph (3) of this affidavit 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 2.390(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 2.390 (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 design information related to the BWR Steam Dryer. Development of this information and its application for the design, procurement and analysis methodologies and processes for the Steam Dryer Program was achieved at a significant cost to GE, on the order of approximately two 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.

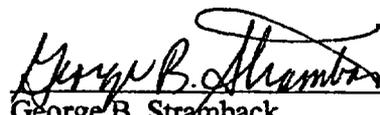
The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

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 16th day of May 2005


George B. Stramback
General Electric Company