



## GE Energy

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MFN 05-082

50-321  
51-254  
50-245

Attn: Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Subject: Part 21 Notification: Power Distribution Uncertainty Reassessment**

This letter provides information regarding a concern expressed by NRC staff about the lack of gamma scan data for currently operating General Electric (GE) fuel designs and the potential impact on power distribution uncertainty values used in Safety Limit Minimum Critical Power Ratio (SLMCPR) analyses. In a conference call on June 22, 2005 with NRC staff members, GE was requested to determine if there is a safety concern associated with this lack of gamma scan data. Therefore, GE initiated an internal evaluation under our 10CFR21 compliant procedure.

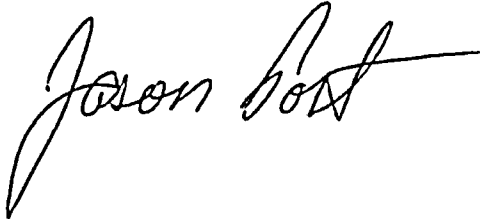
The GE evaluation concluded that gamma scan data available to GE does not indicate that there is a deviation in the uncertainty values used in SLMCPR analyses. Furthermore, small changes in the power allocation uncertainty produce an impact on the SLMCPR of less than the historical reportable condition threshold of 0.01. Therefore, the stated concern does not produce a substantial safety hazard or contribute to exceeding a Technical Specification Safety Limit and is not reportable. Since the NRC requested this evaluation, a written explanation of the GE conclusion is enclosed in Attachment 1.

This transmittal contains proprietary information, which GE customarily maintains in confidence and withholds from public disclosure. The enclosed affidavit (Attachment 2) identifies that the designated information has been handled and classified as proprietary to GE. Along with the affidavit, this information is suitable for review by the NRC. GE hereby requests that the designated information be withheld from public disclosure in accordance with the provisions of 10 CFR 2.790 and 9.17.

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If you have any questions, please call me at (910) 675-6608.

Sincerely,

A handwritten signature in black ink, reading "Jason Post". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Jason. S. Post, Manager  
Engineering Quality & Safety Evaluations

cc: S. B. Alexander (NRC-NRR/DISP/PSIM) Mail Stop 6 F2  
M. B. Fields (NRC-NRR/DLPM/LPD4) Mail Stop 7 E1  
C. V. Hodge (NRC-NRR/DIPM/IROB) Mail Stop 12 H2  
M. E. Harding (GE)  
J. F. Harrison (GE)  
J. F. Klapproth (GE)  
L. M. Quintana (GE)  
G. B. Stramback (GE)  
G. A. Watford (GE)  
PRC File

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**Attachment 2**

**Affidavit**

## General Electric Company

### AFFIDAVIT

I, Jason Post, state as follows:

- (1) I am Manager, Engineering Quality and Safety Evaluations, 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 GE proprietary reports GENE/GNF-0000-0013-9020-01 Revision 1 and GENE/GNF-0000-0013-9020-02 Revision 1 which are provided (as Attachments 2 and 3) with GE Letter MFN 05-063 from Jason S. Post to the NRC, *Surveillance Program for Channel-Control Blade Interference*, dated July 14, 2005. The proprietary information in these two reports is identified as follows:

For text and text contained in tables, GE proprietary information is identified by a double underline inside square brackets. The electronic version includes a red font inside the brackets. For black-grayscale printed copies, the color may appear similar to normal text. [This sentence is an example.] Figures and large equation objects that cannot be appropriately identified with the double underlined red font, is identified by large brackets. This paragraph has brackets as an example. Specific information that is not so marked is not GE proprietary.

- (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), 2.790(a)(4), and 2.790(d)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions 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 cost or price information, production capacities, budget levels, or commercial strategies of General Electric, its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future General Electric customer-funded development plans and programs, of potential commercial value to General Electric;
- e. 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., (4)b., and (4)e., above.

- (5) 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 results of experimental testing, analytical models, methods, processes, including computer codes, which GE has developed, and applied to perform evaluations of the cause, effects, and surveillance process related to channel bowing.

The GE development of the technology and computer codes, including the resources expended to obtain NRC approval of computer codes used in this analysis, was achieved at a significant cost, on the order of several million dollars, to GE.

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 August 2005.



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Jason Post  
General Electric Company