

October 29, 2007

Mr. Robert E. Brown  
Senior Vice President, Regulatory Affairs  
GE-Hitachi Nuclear Americas LLC  
3901 Castle Hayne Rd MC A-45  
Wilmington, NC 28401

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
(MFN 07-263)

Dear Mr. Brown:

By letter dated July 24, 2007, and associated affidavit executed on July 24, 2007, by James C. Kinsey, he indicated that the information contained in the response to a portion of NRC Request for Additional Information Letter No. 90 Related to ESBWR Design Certification Application —Licensing Topical Report (LTR), NEDE-33279, “ESBWR Containment Fission Product Removal Evaluation Model” October - RAI Number 15.4-20,” should be withheld as proprietary. He requested that this information be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390.

A nonproprietary copy of this information is not available because GEH has determined that the entire submittal is proprietary.

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 GEH's competitors without license from GEH 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 the July 24, 2007, letter and affidavit in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements contained therein, have determined that the information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, 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.

R. Brown

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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 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.

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

Sincerely,

*/RA/*

Amy E. Cabbage, Senior Project Manager  
ESBWR/ABWR Projects Branch 1  
Division of New Reactor Licensing  
Office of New Reactors

Docket No. 52-010

cc: See next page

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