GE-Hitachi Nuclear Energy

Proprietary Notice

This letter forwards proprietary information in accordance with 10CFR2.390. Upon the removal of Enclosure 1, the balance of this letter may be considered non-proprietary.

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MFN 07-532

October 10, 2007

U.S. Nuclear Regulatory Commission

Document Control Desk

Washington, D.C. 20555-0001

Subject: Isotope Generation Meeting, October 4, 2007, Presentation Slides

Enclosed is GE-Hitachi Nuclear Energy's (GEH) presentation for the Isotope Generation Meeting held on October 4, 2007.

Please note that Enclosure 1 contains proprietary information of the type that GEH maintains in confidence and withholds from public disclosure. The information has been handled and classified as proprietary to GEH as indicated in the affidavit contained in Enclosure 3. GEH hereby requests that the information in Enclosure 1 be withheld from public disclosure in accordance with the provisions of 10CFR2.390 and 9.17.

Enclosure 2 is the non-proprietary version of the presentation.

Sincerely,

James F. Harrison

James F. Harrison
Vice President, Fuel Licensing
Regulatory Affairs

Project No. 710

D065
NRR

Enclosures

1. Isotope Generation Meeting, October 4, 2007, Presentation Slides - GEH Proprietary Information (CD ROM)
2. Isotope Generation Meeting, October 4, 2007, Presentation Slides - Non-Proprietary Information (CD ROM)
3. Affidavit, dated October 10, 2007

cc: MC Honcharik (US NRC)
WE Russell (GEH/Wilmington)
CJ Monetta (GEH/Wilmington)
JM Andersen (GNF/Wilmington)
RE Brown (GEH/Wilmington)
PL Campbell (GEH/Washington)

ENCLOSURE 1 (CD ROM)

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Isotope Generation Meeting, October 4, 2007, Presentation Slides

GEH Proprietary Information

PROPRIETARY INFORMATION NOTICE

This enclosure contains proprietary information of GE-Hitachi Nuclear Energy (GEH) and is furnished in confidence solely for the purpose(s) stated in the transmittal letter. No other use, direct or indirect, of the document or the information it contains is authorized. Furnishing this enclosure does not convey any license, express or implied, to use any patented invention or, except as specified above, any proprietary information of GEH disclosed herein or any right to publish or make copies of the enclosure without prior written permission of GEH.

The footer of each page in this enclosure carries the notation "GEH Proprietary Information." The GEH proprietary information is identified by [[double square brackets$^{\{3\}}$]]. In each case, the superscript notation$^{\{3\}}$ refers to Paragraph (3) of the enclosed affidavit, which provides the basis for the proprietary determination. Specific information that is not so marked is not GEH proprietary.

ENCLOSURE 2 (CD ROM)

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Isotope Generation Meeting, October 4, 2007, Presentation Slides

Non-Proprietary Information

IMPORTANT NOTICE

This is a non-proprietary version of Enclosure 1 to MFN 07-532 from which the proprietary information has been redacted. Portions of the document that have been removed are indicated by white space with open and closed double square bracket as shown here [[ ]].

ENCLOSURE 3

MFN 07-532

Affidavit

GE-Hitachi Nuclear Energy Americas LLC

AFFIDAVIT

I, James F. Harrison, state as follows:

(1) I am Vice President, Fuel Licensing, Regulatory Affairs, GE-Hitachi Nuclear Energy Americas LLC (GEH), 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 MFN 07-532, James F. Harrison (GEH) to Document Control Desk (USNRC), *Isotope Generation Meeting, October 4, 2007, Presentation Slides,* dated October 10, 2007. The proprietary information in Enclosure 1, *Isotope Generation Meeting, October 4, 2007, Presentation Slides,* is identified by [[double square brackets{3}]]. In each case, the superscript notation {3} refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.

(3) In making this application for withholding of proprietary information of which it is the owner or licensee, GEH 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 GEH's competitors without license from GEH 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 GEH customer-funded development plans and programs, resulting in potential products to GEH;

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, (4)b, and 4(d) 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 GEH, 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 GEH, 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, or subject to the terms under which it was licensed to GEH. Access to such documents within GEH 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 for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GEH 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 results and conclusions including the design, process, and methodology for the generation of specific isotopes. This design, process, and methodology has been developed by GEH for over five years, at a cost of over a 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 GEH asset.

(9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GEH's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GEH'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 GEH.

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.

GEH's competitive advantage will be lost if its competitors are able to use the results of the GEH 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 GEH 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 GEH of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining 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 10th day of October, 2007.

James F. Harrison
Vice President, Fuel Licensing, Regulatory Affairs
GE-Hitachi Nuclear Energy Americas LLC