



**HITACHI**

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**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.

MFN 08-126

Docket No. 52-010

February 15, 2008

U.S. Nuclear Regulatory Commission  
Document Control Desk  
Washington, D.C. 20555-0001

Subject: **Transmittal of Loss of Coolant Accident Scenarios RADTRAD  
Computer Code Input Files**

The purpose of this letter is to transmit the compact disc (CD) RADTRAD computer code input files for the Loss of Coolant Accident in order to facilitate NRC Staff confirmation of the doses associated with the postulated accident.

Enclosure 1 CD contains GEH proprietary information as defined by 10 CFR 2.390. GEH customarily maintains this information in confidence and withholds it from public disclosure. Non-proprietary versions of the RADTRAD input and output files are not available and if prepared would effectively be empty files.

The affidavit contained in Enclosure 2 identifies that the information contained in Enclosure 1 CD has been handled and classified as proprietary to GEH. GEH hereby requests that the information of Enclosure 1 be withheld from public disclosure in accordance with the provisions of 10 CFR 2.390 and 9.17. The Enclosure 1 CD computer files are entirely proprietary.

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If you have any questions or require additional information, please contact me.

Sincerely,



James C. Kinsey  
Vice President, ESBWR Licensing

Enclosures:

1. MFN 08-126 RADTRAD Computer Input Files for LOCA – Proprietary Information
2. Affidavit – David H. Hinds – February 20, 2008

cc: AE Cabbage      USNRC (with enclosure)  
GB Stramback      GEH/San Jose (with enclosure)  
RE Brown          GEH/Wilmington (with enclosure)

## Enclosure 1

MFN 08-126

### RADTRAD Computer Input Files for LOCA

- ESBWR LTRR1 AS-1 MSIV04 12cfm final.o0
- ESBWR LTRR1 AS-1 MSIV04 12cfm final.psf.txt
- ESBWR LTRR1 AS-1 PCCS04 12cfm final.o0
- ESBWR LTRR1 AS-1 PCCS04 12cfm final.psf.txt
- ESBWR LTRR1 AS-1 RB04 12cfm final.o0
- ESBWR LTRR1 AS-1 RB04 12cfm final.psf.txt
- ESBWR LTRR1 AS-2 MSIV04 12cfm final.o0
- ESBWR LTRR1 AS-2 MSIV04 12cfm final.psf.txt
- ESBWR LTRR1 AS-2 PCCS0412cfm final.o0
- ESBWR LTRR1 AS-2 PCCS04 12cfm final.psf.txt
- ESBWR LTRR1 AS-2 RB04 12cfm final.o0
- ESBWR LTRR1 AS-2 RB04 12cfm final.psf.txt
- ESBWR LTRR1 AS-3 MSIV04 12cfm final.o0
- ESBWR LTRR1 AS-3 MSIV04 12cfm final.psf.txt
- ESBWR LTRR1 AS-3 PCCS04 12cfm final.o0
- ESBWR LTRR1 AS-3 PCCS04 12cfm final.psf.txt
- ESBWR LTRR1 AS-3 RB04 12cfm final.o0
- ESBWR LTRR1 AS-3 RB04 12cfm final.psf.txt
- FGR 11-12.inp
- BWR\_DBA.RFT
- ESBWR LOCA.nif

## **Proprietary Information**

### PROPRIETARY INFORMATION NOTICE

This enclosure contains proprietary information of the GE-Hitachi Nuclear Energy Americas LLC (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. All of the information contained in this CD enclosure is proprietary. Paragraph (3) of the enclosed affidavit provides the basis for the proprietary determination.

# GE-Hitachi Nuclear Energy Americas LLC

## AFFIDAVIT

I, **David H. Hinds**, state as follows:

- (1) I am the General Manager, New Units Engineering, 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 CD of MFN 08-126, Mr. James C. Kinsey to U.S. Nuclear Regulatory Commission, *Transmittal of Loss of Coolant Accident Scenarios RADTRAD Computer Code Input Files* dated February 15, 2008. The information in the Enclosure 1 CD, which is entitled "*MFN 08-126 RADTRAD Computer Code Input Files for LOCA*" contains GEH Proprietary Information. The proprietary information in the Enclosure 1 CD, which is entitled "*MFN 08-126 RADTRAD Computer Code Input Files for LOCA*", is entirely proprietary. 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 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. 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 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 identifies detailed GEH ESBWR calculations related to dose calculations for the Loss of Coolant Accident scenarios. Development of these dose calculations for Loss of Coolant Accident scenarios was achieved at a significant cost to GEH, on the order of fifty thousand dollars and would result in a significant economic and competitive advantage to a competitor, and 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 15<sup>th</sup> day of February, 2008.



David H. Hinds  
GE-Hitachi Nuclear Energy Americas LLC