April 16, 2008

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 06-191, SUPPLEMENT 6)

Dear Mr. Brown:

By letter dated December 12, 2007, and associated affidavit executed on December 12, 2007, by David H. Hinds, Mr. Hinds indicated that the information contained in "Response to Portion of NRC Request for Additional Information Letter No. 38 Related to ESBWR Design Certification Application — Structural Analysis — RAI Numbers 3.8-25 S04, 3,8-41 S04 and 3.8-91 S04," specifically the enclosed report, "Two Dimensional Shimizu Section Design Program SSDP-2D, Theoretical Description," should be withheld as proprietary. GE-Hitachi Nuclear Energy (GEH) 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 was provided in Enclosure 3 and was placed in the NRC Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ADAMS Accession No. ML073520044).

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 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.

We have reviewed the December 12, 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.

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. Cubbage, 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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Amy E. Cubbage, Senior Project Manager
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cc:

Ms. Michele Boyd
Legislative Director
Energy Program
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Mr. Ray Ganthner
Senior Vice President
AREVA, NP, Inc. 3315
Old Forest Road
P.O. Box 10935
Lynchburg, VA 24506-0935

Email

aec@nrc.gov (Amy Cubbage)
APH@NEI.org (Adrian Heymer)
art.alford@ge.com (Art Alford)
awc@nei.org (Anne W. Cottingham)
bennettS2@bv.com (Steve A. Bennett)
bevans@enercon.com (Bob Evans)
bob.brown@ge.com (Robert E. Brown)
BrinkmCB@westinghouse.com (Charles Brinkman)
chris.maslak@ge.com (Chris Maslak)
craig.conklin@dhs.gov (Craig Conklin)
CumminWE@Westinghouse.com (Edward W. Cummins)
cwaltman@roe.com (C. Waltman)
dan1.williamson@ge.com (Dan Williamson)
david.hinds@ge.com (David Hinds)
david.lewis@pillsburylaw.com (David Lewis)
David.piepmeyer@ge.com (David Piepmeyer)
dennis.chin@ge.com (Dennis Chin)
dlochbaum@UCSUSA.org (David Lochbaum)
don.lewis@ge.com (Don Lewis)
erg-xl@cox.net (Eddie R. Grant)
Eugene_Grecheck@dom.com (Eugene S. Grecheck)
frankq@hursttech.com (Frank Quinn)
Frostie.white@ge.com (Frostie White)
gcesare@enercon.com (Guy Cesare)
GEH-NRC@hse.gsi.gov.uk (Geoff Grint)
george.honma@ge.com (George Honma)
george.stramback@gene.ge.com (George Stramback)
george.wadkins@ge.com (George Wadkins)
GovePA@BV.com (Patrick Gove)
greshaja@westinghouse.com (James Gresham)
gzinke@entergy.com (George Alan Zinke)
hickste@earthlink.net (Thomas Hicks)
james.beard@gene.ge.com (James Beard)
jcurtiss@winston.com (Jim Curtiss)
jeff.waal@ge.com (Jeff Waal)
jgutierrez@morganlewis.com (Jay M. Gutierrez)
jim.kinsey@ge.com (James Kinsey)
jim.riccio@wdc.greenpeace.org (James Riccio)
jim.rogers@ge.com (Jim Rogers)
JJNesrsta@cpsenergy.com (James J. Nesrsta)
joel.Friday@ge.com (Joel Friday)
John.O'Neill@pillsburylaw.com (John O'Neill)
john.sorensen@ge.com (John Sorensen)
Joseph_Hegner@dom.com (Joseph Hegner)

junichi_uchiyama@mnes-us.com (Junichi Uchiyama)
kathy.sedney@ge.com (Kathy Sedney)
kathy.warnock@ge.com (Kathy Warnock)
kenneth.ainger@exeloncorp.com (Kenneth Ainger)
kimberly.milchuck@ge.com (Kimberly Milchuck)
KSutton@morganlewis.com (Kathryn M. Sutton)
kurt.schaefer@ge.com (Kurt Schaefer)
kwaugh@impact-net.org (Kenneth O. Waugh)
laura.bello@ge.com (Laura Bello)
lou.lanese@ge.com (Lou Lanese)
maria.webb@pillsburylaw.com (Maria Webb)
mark.beaumont@wsms.com (Mark Beaumont)
Marvin.Smith@dom.com (Marvin L. Smith)
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)
media@nei.org (Scott Peterson)
mgiles@entergy.com (M. Giles)
mike_moran@fpl.com (Mike Moran)
MSF@nei.org (Marvin Fertel)
mwetterhahn@winston.com (M. Wetterhahn)
nirsnet@nirs.org (Michael Mariotte)
PAC2@nrc.gov (Peter Cochran)
pareez.golub@ge.com (Pareez Golub)
Pat.Woodfin@ge.com (Pat Woodfin)
patriciaL.campbell@ge.com (Patricia L. Campbell)
paul.gaukler@pillsburylaw.com (Paul Gaukler)
Paul@beyondnuclear.org (Paul Gunter)
peter.jordan@ge.com (Peter Jordan)
phinnen@entergy.com (Paul Hinnenkamp)
pshastings@duke-energy.com (Peter Hastings)
randy.newton@ge.com (Randy Newton)
RJB@NEI.org (Russell Bell)
RKTemple@cpsenergy.com (R.K. Temple)
roberta.swain@ge.com (Roberta Swain)
sandra.sloan@areva.com (Sandra Sloan)
SauerB@BV.com (Robert C. Sauer)
sfrantz@morganlewis.com (Stephen P. Frantz)
sharon.lyons@ge.com (Sharon Lyons)
steven.hucik@ge.com (Steven Hucik)
steven.stark@ge.com (Steven Stark)
tom.miller@hq.doe.gov (Tom Miller)
trsmith@winston.com (Tyson Smith)
Vanessa.quinn@dhs.gov (Vanessa Quinn)
VictorB@bv.com (Bill Victor)
Wanda.K.Marshall@dom.com (Wanda K. Marshall)
waraksre@westinghouse.com (Rosemarie E. Waraks)

wayne.cutright@ge.com (Wayne Cutright)
wayne.marquino@ge.com (Wayne Marquino)
whorin@winston.com (W. Horin)