

June 23, 2008

Mr. Robert E. Brown  
Senior Vice President, Regulatory Affairs  
GE Hitachi Nuclear Energy  
3901 Castle Hayne M/C A50  
Wilmington, NC 28401

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
(MFN 08-414)

Dear Mr. Brown:

By letter dated May 12, 2008, and associated affidavit executed on May 12, 2008, by David H. Hinds, Mr. Hinds indicated that the information contained in "Response to Portion of NRC Request for Additional Information Letter No. 97 Related to ESBWR Design Certification Application – Reactor Water Cleanup/Shutdown Cooling System – RAI Number 5.4-59," 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 4 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. ML081340673).

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 May 12, 2008, 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 301-415-3025.

Sincerely,

*/RA/*

Chandu Patel, 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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DCWG - ESBWR Mailing List  
cc:

(Revised 06/10/2008)

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

Mr. Ronald Kinney  
South Carolina DHEC  
2600 Bull Street  
Columbia, SC 29201

## DCWG - ESBWR Mailing List

### Email

aec@nrc.gov (Andrea Johnson)  
APH@NEI.org (Adrian Heymer)  
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)  
cberger@energetics.com (Carl Berger)  
chris.maslak@ge.com (Chris Maslak)  
CumminWE@Westinghouse.com (Edward W. Cummins)  
cwaltman@roe.com (C. Waltman)  
dan1.williamson@ge.com (Dan Williamson)  
david.lewis@pillsburylaw.com (David Lewis)  
dlochbaum@UCSUSA.org (David Lochbaum)  
don.lewis@ge.com (Don Lewis)  
draleigh@scientech.com (Denna Raleigh)  
Eugene\_Grecheck@dom.com (Eugene S. Grecheck)  
frankq@hursttech.com (Frank Quinn)  
gcesare@enercon.com (Guy Cesare)  
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)  
jgutierrez@morganlewis.com (Jay M. Gutierrez)  
jim.kinsey@ge.com (James Kinsey)  
jim.riccio@wdc.greenpeace.org (James Riccio)  
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)  
kenneth.ainger@exeloncorp.com (Kenneth Ainger)  
KSutton@morganlewis.com (Kathryn M. Sutton)  
kurt.schaefer@ge.com (Kurt Schaefer)  
kwaugh@impact-net.org (Kenneth O. Waugh)  
lou.lanese@ge.com (Lou Lanese)  
Marc.Brooks@dhs.gov (Marc Brooks)  
maria.webb@pillsburylaw.com (Maria Webb)  
marilyn.kray@exeloncorp.com  
mark.beaumont@wsms.com (Mark Beaumont)

## DCWG - ESBWR Mailing List

Marvin.Smith@dom.com (Marvin L. Smith)  
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)  
media@nei.org (Scott Peterson)  
mike\_moran@fpl.com (Mike Moran)  
MSF@nei.org (Marvin Fertel)  
nirsnet@nirs.org (Michael Mariotte)  
PAC2@nrc.gov (Peter Cochran)  
pareez.golub@ge.com (Pareez Golub)  
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)  
regservices@scientech.com (Reg Service)  
RJB@NEI.org (Russell Bell)  
RKTemple@cpsenergy.com (R.K. Temple)  
roberta.swain@ge.com (Roberta Swain)  
Russell.Wells@Areva.com (Russell Wells)  
sandra.sloan@areva.com (Sandra Sloan)  
SauerB@BV.com (Robert C. Sauer)  
sfrantz@morganlewis.com (Stephen P. Frantz)  
sid.kere@dom.com (Sid Kere)  
steven.hucik@ge.com (Steven Hucik)  
tdurkin@energetics.com (Tim Durkin)  
trsmith@winston.com (Tyson Smith)  
Vanessa.quinn@dhs.gov (Vanessa Quinn)  
VictorB@bv.com (Bill Victor)  
Wanda.K.Marshall@dom.com (Wanda K. Marshall)  
wayne.marquino@ge.com (Wayne Marquino)  
whorin@winston.com (W. Horin)