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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 08-518

Docket No. 52-010

July 2, 2008

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

Subject: **Response to Portion of NRC Request for Additional Information Letter No. 177 Related To NEDE-33295P, "Cyber Security Program Plan" – RAI Numbers 7.1-87, 7.1-88, 7.1-89, 7.1-90, 7.1-91, 7.1-92, 7.1-93, 7.1-94, 7.1-95, 7.1-96, 7.1-97, and 7.1-98**

Enclosure 1 contains GEH's response to the subject NRC RAIs transmitted via the Reference 1 letter.

Enclosure 1 contains GEH proprietary information. GEH customarily maintains this information in confidence and withholds it from public disclosure. A non-proprietary version is provided in Enclosure 2.

The affidavit contained in Enclosure 3 identifies that the information contained in Enclosure 1 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.

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

Sincerely,

Richard E. Kingston
Vice President, ESBWR Licensing

DOB8
NRC

Reference:

1. MFN 08-363, Letter from U.S. Nuclear Regulatory Commission to Robert E. Brown, *Request for Additional Information Letter No. 177 Related To NEDE-33295P, "Cyber Security Program Plan"*, April 8, 2008

Enclosures:

1. MFN 08-518 - Enclosure 1 - Response to Portion of NRC Request for Additional Information Letter No. 177 Related To NEDE-33295P, "Cyber Security Program Plan" – RAI Numbers 7.1-87, 7.1-88, 7.1-89, 7.1-90, 7.1-91, 7.1-92, 7.1-93, 7.1-94, 7.1-95, 7.1-96, 7.1-97, and 7.1-98 - GEH Proprietary Information
2. MFN 08-518 - Enclosure 2 - Response to Portion of NRC Request for Additional Information Letter No. 143 Related To NEDE-33295P, "Cyber Security Program Plan" – RAI Numbers 7.1-87, 7.1-88, 7.1-89, 7.1-90, 7.1-91, 7.1-92, 7.1-93, 7.1-94, 7.1-95, 7.1-96, 7.1-97, and 7.1-98 Non-Proprietary Version
3. Affidavit

cc:	AE Cubbage	USNRC (with enclosures)
	RE Brown	GEH/Wilmington (with enclosures)
	GB Stramback	GEH/San Jose (with enclosures)
	eDRF Section No.	
		0000-0085-0226 RAI 7.1-87
		0000-0085-0227 RAI 7.1-88
		0000-0085-0228 RAI 7.1-89
		0000-0085-0230 RAI 7.1-90
		0000-0085-0231 RAI 7.1-91
		0000-0085-0233 RAI 7.1-92
		0000-0085-0234 RAI 7.1-93
		0000-0085-0235 RAI 7.1-94
		0000-0085-0236 RAI 7.1-95
		0000-0085-0240 RAI 7.1-96
		0000-0085-0241 RAI 7.1-97
		0000-0085-0244 RAI 7.1-98

MFN 08-518

Enclosure 2

**Response to Portion of NRC Request for Additional
Information Letter No. 177 Related To NEDE-33295P,
“Cyber Security Program Plan” – RAI Numbers 7.1-87,
7.1-88, 7.1-89, 7.1-90, 7.1-91, 7.1-92, 7.1-93, 7.1-94, 7.1-95,
7.1-96, 7.1-97, and 7.1-98**

Non-Proprietary Version

NRC RAI 7.1-87:

This RAI refers to LTR NEDE-33295P.

*Page 1-1, Section 1.1-Executive Summary, Paragraph-4. Editorial comment:
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GEH Response:

Section 1/Paragraph 4 of NEI 04-04, Revision 1, "Cyber Security Program for Power Reactors," states, "This guideline does not establish minimum standards or acceptable risk or a specific set of mitigation measures that must be employed."

Section 1.1 of NEDE-33295P, Revision 0 will be revised (see markup below) to correct the wording.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.
LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below.

The revised Paragraph 4 of Section 1.1 in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

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NRC RAI 7.1-88

This RAI refers to LTR NEDE-33295P.

Page 1-2, Section 1.4-Objective. Editorial comment: This section states various objectives that seem to pertain to an existing installation and not supporting new designs or concepts utilizing current digital technologies. Missing programmatic objectives are; training, advanced training, and other core programmatic attributes that should be a part of the overall program objective. Please revise NEDE-33295P to address the missing programmatic objectives.

GEH Response:

GEH Licensing Report (LTR) NEDE-33295P, Revision 0, "Cyber Security Program Plan": Section 1.4, *Objective* addresses the primary goals and objectives of the overall ESBWR cyber security program, as derived from the guidelines described in Section 2 of NEI 04-04, Revision 1, "Cyber Security Program for Power Reactors."

The existing Section 1.4 of NEDE-33295P, Revision 0 will be revised (see markup below). The new revision will add a bullet describing cyber-security-related training to ensure that appropriate plant personnel receive the training and/or certification required to effectively perform their assigned duties and responsibilities.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.
LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below.

The revised Section 1.4 in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

1.4 Objective

This Topical Report is intended to be a top-tier design basis and high-level implementation guide for ESBWR Cyber Security Program, per NRC Regulatory Guide 1.152 [2.2.1(1)], and NEI 04-04 [2.2.4(1)]. [[

NRC RAI 7.1-89

This RAI refers to LTR NEDE-33295P.

Page 1-4, Section 1.5-Scope, Bullet-4. [[

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GEH Response:

GEH Licensing Technical Report (LTR) NEDE-33295P, Revision 0, "*Cyber Security Program Plan*": Section 10.3, *Contingency and Disaster Recovery Plan* addresses the responsibility of GEH to include into the ESBWR Cyber Security Policy and Procedures (*formerly named GEH Policy and Procedures*) the unique circumstances introduced by cyber security threats and ensure that they are factored into the future plant's operational procedures that provide contingency and disaster recovery plans, which are the responsibility of the Licensee.

Methods to programmatically address emergency preparedness are beyond the scope of this LTR. For clarity of intention to comply with Section 7.3 of NEI 04-04, Revision 1, "*Cyber Security Program for Power Reactors*," Section 10.3 of NEDE-33295P, Revision 0 will be revised.

See markup below.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.

LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below.

The revised Section 10.3 in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

10.3 Contingency and Disaster Recovery Plans

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NRC RAI 7.1-90

This RAI refers to LTR NEDE-33295P.

Page 1-5, Section 1.7.1 GEH ESBWR Licensing Position. Editorial comment: The NRC has informed industry that the "Nuclear Energy Institute (NEI) 04-04, "Cyber Security Program for Power Reactors," Revision 1, dated November 18, 2005, is an acceptable method for establishing and maintaining a cyber security program at nuclear power plants." This statement is contained in a letter from the NRC to Mr. Michael T. Coyle, Vice President, Nuclear Operations, Nuclear Generation Division, Nuclear Energy Institute, dated December 23, 2005. The program was identified as being "acceptable" by the staff but does not constitute a formal endorsement of this program. Please revise NEDE-33295P to state that NEI 04-04 is as an acceptable method rather than endorsed by the NRC.

GEH Response:

Section 1.7.1 of NEDE-33295P, Revision 0 will be revised to indicate that NEI 04-04, Revision 1, "Cyber Security Program for Power Reactors," is found as an acceptable method by the NRC.

See markup below.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.

LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below.

The revised Section 1.7.1 in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

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NRC RAI 7.1-91

This RAI refers to LTR NEDE-33295P.

Page 1-6, Section 1.7.2, NRC Testing Background [[

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GEH Response:

The ESBWR Cyber Security Program Plan Licensing Topical Report (LTR) NEDE-33295P complies with Reg. Guide 1.152, NEI 04-04, Rev. 1 and the clarifying statements in DI&C-ISG-04.

Specifically on connectivity and vulnerability scanning, NEDE-33295P Section 1.7.2 includes the following GEH position on the referenced sections of NEI-04-04 and Reg. Guide 1.152:

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Lastly, Section 4.3.1 of the SQAPM, Rev 3 addresses the performance of the Preliminary Hazard Analysis, as an integral part of the Software Safety Analysis, which is described in more detail in the response to RAI 7.1-98.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.

No changes to the subject LTR will be made in response to this RAI.

NRC RAI 7.1-92

This RAI refers to LTR NEDE-33295P.

Page 3-3, Section 3.2 Policies and Procedures, paragraph 2 references Figure 4-1 to illustrate how cyber security requirements will be integrated into all phases of the software lifecycle for the ESBWR. However, when reviewing Figure 4-1, it is not obvious what life cycle phases are in use or where activities that are specified under RG 1.152 would be applied. Lifecycle phases identified by RG 1.152 are as follows:

- *Concepts*
- *Requirements*
- *Design*
- *Implementation*
- *Test*
- *Installation, checkout, and acceptance testing*
- *Operation*
- *Maintenance*
- *Retirement*

The supplied diagram appears to be an extension of the NEI 04-04 program management process but fails to clearly identify cyber security activities that would be expected to exist within the lifecycle phases. Please provide additional information as related to the planning stages to identify how cyber security requirements and cyber security activities are integrated into each respective phase of the software lifecycle for the ESBWR.

GEH Response:

The ESBWR Cyber Security Program Plan, NEDE-33295P, Rev 0, has been updated by replacing Figure 4-1 with a new Figure 4-1 based on updates to NEDE-33226P, Rev 3, ESBWR Software Management Program Manual (SMPM), Figure 5-11. This modified Figure 4-1 shows the implementation of cyber security activities in all phases of the life cycle in implementation of the Cyber Security Program Plan, NEDE-33245P, Rev 3, Software Quality Assurance Program Manual (SQAPM) and NEDE-33217P, Rev 3, Man-Machine Interface System (MMIS) and Human Factors Engineering (HFE) Implementation Plan. The updates to these other program manuals and plans were completed to meet commitments in Section 3.2 and 7.3 of the Cyber Security Program Plan.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.

LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below and as described above.

The revised Section 4, Figure 4-1 in Cyber Security LTR (NEDE-33295P), Revision 1, will show as follows: (NOTE: FIGURE 4-1 is GEH PROPRIETARY INFORMATION)

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Figure 4-1 ESBWR Cyber Security Process Diagram (Sheet 1 of 2)

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Figure 4-1 ESBWR Cyber Security Process Diagram (Sheet 2 of 2)

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NRC RAI 7.1-93

This RAI refers to LTR NEDE-33295P.

Page 3-4, Section 3.3 The ESBWR Cyber Security Defensive Model, paragraph 10, sentence 1: [[

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GEH Response:

NEDE-33295P incorrectly listed the following sentence under both Security Level 0 and Security Level 1 in Section 3.3:

[[

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Section 3.3 of NEDE-33295, Rev 0 will be revised to delete the above sentence in Section 3.3, under "Security Level 0" and maintain the current text under "Security Level 1."

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.
LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below.

The revised Section 3.3 in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

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NRC RAI 7.1-94

This RAI refers to LTR NEDE-33295P.

Page 5-1, Section 5 Requirements Phase, paragraph 1, sentence 3: [[

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GEH Response:

In NEDE-33295P, Rev. 0, the first paragraph omitted a reference to NEI 04-04, Rev 1, in referring to the Cyber Security Defensive Model.

Section 5 of NEDE-33295P, Revision 0 will be revised to correctly reference NEI 04-04, Rev 1, when referring to the Cyber Security Defensive Model. See markup below.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI. LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below and as described above.

The revised Section 5 (first paragraph) in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

The list of potential systems and digital devices designated as CDAs, their communication pathways and methods along with a list of vulnerabilities has now been developed as part of the engineering analysis of the planning phase, as described in Section 4. The cyber security requirements for each of these systems need to be developed as part of the overall system requirements, following Section 2.2 of Reg. Guide 1.152, [2.2.1(1)]. This strategy will also help in determining the approach for incorporating protective measures into these systems in adherence to the Cyber Security Defensive Model, following Section 4.2 of NEI 04-04 [2.2.4(1)]. ~~These requirements are the rules the rest of the system must adhere to for successful performance of system operation and adherence to the Cyber Security Defensive Model, following Section 2.2 of Reg. Guide 1.152 [2.2.1(1)].~~

NRC RAI 7.1-95

This RAI refers to LTR NEDE-33295P.

Page 5-2, Section 5.2 Development of Requirements for Network Architecture.
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GEH Response:

Upon review with GEH Safeguards Assessment Team, it was determined that the GEH Safeguards Assessment Program is no longer necessary. An assessment was already performed and documented in NEDE-33391, *ESBWR Safeguards Assessment Report*.

NEDE-33391, *ESBWR Safeguards Assessment Report*, which contains Safeguards Information, was submitted to NRC for review on November 21, 2007, per MFN-07-602. This document describes the security measures credited in defending the ESBWR against an internal threat.

Since safeguards assessment are necessary to implement the ESBWR Cyber Security Program, the following changes will be made in the next revision of NEDE-33295P, "*Cyber Security Program Plan*":

- Section 2.3, *Supplemental Documents*: Addition of NEDE-33391, *ESBWR Safeguards Assessment Report* as a reference (see markup below).
- Section 5.2, *Development of Requirements for Network Architecture*: Deletion of the reference to GEH Safeguards Assessment Program (see markup below).

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.
LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below.

The revised Sections 2.3 in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

2.3 Supplemental Documents

The following supplemental documents are used in conjunction with this document:

Document Title	Document Number
4. ESBWR I&C Software Quality Assurance Plan (SQAP)	NEDE-33245P
5. ESBWR I&C Software Management Plan (SMP)	NEDE-33226P
6. ESBWR Safeguards Assessment Report	NEDE-33391

The revised Sections 5.2 in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

5.2 Development of Requirements for Network Architecture

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NRC RAI 7.1-96

This RAI refers to LTR NEDE-33295P.

Page 6-1, Section 6 Design Phase, paragraph-1. [[

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GEH Response:

GEH Licensing Report (LTR) NEDE-33226P, "ESBWR – I&C Software Management Plan (SMP)" addresses all three objectives that were identified in the design phase of GEH Licensing Report (LTR) NEDE-33295P, "Cyber Security Program Plan": Section 6, *Design Phase: Confidentiality, Integrity, and Availability*. The following are excerpts from various sections of NEDE-33226P, Revision 3, "Software Management Program Manual (SMPM)":

- Section 3.6 PROJECT MANAGEMENT PRIORITIES, MONITORING, AND CONTROL: "Integrity - Integrity for all aspects of project performance is practiced at all times."
- Section 5.4.7 Cyber Security Analysis (CySA): [[

]]

- Section 5.7.4 Hardware/Software Specification (HSS): [[

]]

- Section 5.7.9 Software Support Tools/Documentation for Software Development: [[

]]

- Section 6.12.2.2 Integration Test Design: [[

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- Section 8.5 METHODS AND TOOLS: ". . . The O&M Manual shall describe the operational environment within which the software shall operate. This includes: : • Maintaining the integrity of the Cyber

Security Defensive Model including considerations for restricted access to the model itself in accordance with the CySPM [2.3(8)] . . .

SMPM, Revision 3, was submitted to the NRC via MFN 08-269.

Thus, the subject paragraph of GEH Licensing Report (LTR) NEDE-33295P, "*Cyber Security Program Plan*": Section 6, *Design Phase* will be revised to add "confidentiality" and "integrity" in order to be consistent with SMPM, Revision 3.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.
LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below

The revised Section 6 in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

[[

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NRC RAI 7.1-97

This RAI refers to LTR NEDE-33295P.

Page 6-1, Section 6.1 Design of Physical and Logical Access. Section 6.1 states that, "NEDE-33399-P provides more guidance on the detailed cyber security design process." If NEDE-33399-P is necessary to implement the ESBWR cyber security program, please provide NEDE-33399-P to the NRC for review. Otherwise remove the reference to this document.

GEH Response:

NEDE-33295P, Revision 0, Section 6.1 commits to compliance with Reg. Guide 1.152 Section 2.3 including the design of physical and logical access. After issue of NEDE-33295, Rev 0, to NRC, NEDE-33391, "ESBWR Safeguards Assessment Report," was issued for NRC review.

Section 6.1 of NEDE-33295P, Rev 0 will be revised to correctly reference NEDE-33391 as well as the ESBWR Cyber Security Policy and Procedures for additional guidance on the design of physical and logical access. See markup below. As noted in the response to RAI 7.1-95, NEDE-33391, *ESBWR Safeguards Assessment Report*, was submitted for NRC review on November 21, 2007, per MFN-07-602, and added to the reference listing for NEDE-33295P.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.
LTR NEDE-33295P, Rev 0 will be revised as noted in the markup below or as described above.

The revised Section 6.1 in Cyber Security LTR (NEDE-33295P), Revision 1, will read as follows:

The analysis has been completed and the list of Critical Digital Assets has been made in the planning and requirements phases. [[

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NRC RAI 7.1-98

This RAI refers to LTR NEDE-33295P.

Page 8-1, Section 8 Test Phase. [[

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GEH Response:

As noted in the GEH response to RAI 7.1-91, cyber security activities addressed in NEDE-33295P are conducted in coordination with NEDE-33226P, Rev. 3, Software Management Program Manual (SMPM) and NEDE-33245P, Rev 3, Software Quality Assurance Program Manual (SQAPM). Section 4.3.1 of the SQAPM, Rev 3 addresses the performance of the Hazard Analysis, as an integral part of the Software Safety Analysis. As noted in Section 4.3.1 of the SQAPM, Rev 3, tools that may be used to perform the preliminary and follow-up hazard analyses range from informal general analysis to formal Failure Modes and Effects Analysis (FMEA) and Fault Tree Analysis to support hazard identification. The hazard analyses are used to discover potential safety risks caused by software failures.

The hazard analysis described above provides input to the Cyber Security risk assessment performed in accordance with Section 4.3 of the Cyber Security Program Plan, in coordination with the associated steps in the SMPM and SQAPM. The SMPM and SQAPM have been reviewed and updated to clarify and expand on the coordination on cyber security required activities between the Cyber Security Program Plan and the SMPM and SQAPM.

DCD / Licensing Topical Report Impact:

No DCD changes will be made in response to this RAI.
No changes to the subject LTR will be made in response to this RAI.

MFN 08-518

Enclosure 3

Affidavit

GE Hitachi Nuclear Energy

AFFIDAVIT

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

- (1) I am the General Manager, New Units Engineering, GE Hitachi Nuclear Energy ("GEH") and 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 GEH letter MFN 08-518, Mr. James C. Kinsey to U.S. Nuclear Regulatory Commission, "Response to Portion of NRC Request for Additional Information Letter No. 177 Related To NEDE-33295P, "Cyber Security Program Plan" – RAI Numbers 7.1-87, 7.1-88, 7.1-89, 7.1-90, 7.1-91, 7.1-92, 7.1-93, 7.1-94, 7.1-95, 7.1-96, 7.1-97, and 7.1-98," dated July 2nd, 2008. GEH Proprietary Information is identified in Enclosure 1, "Response to Portion of NRC Request for Additional Information Letter No. 177 Related To NEDE-33295P, "Cyber Security Program Plan" – RAI Numbers 7.1-87, 7.1-88, 7.1-89, 7.1-90, 7.1-91, 7.1-92, 7.1-93, 7.1-94, 7.1-95, 7.1-96, 7.1-97, and 7.1-98 – GEH Proprietary Information," in dark red font and a dashed underline inside double square brackets. [[This sentence is an example.⁽³⁾]] Figures and large equation objects are identified with double square brackets before, and after the object. In each case, the superscript notation ⁽³⁾ refers to paragraph (3) of this affidavit, which provides the basis of the proprietary determination. Specific information that is not so marked is not GEH proprietary. A non-proprietary version of this information is provided in Enclosure 2, "Response to Portion of NRC Request for Additional Information Letter No. 177 Related To NEDE-33295P, "Cyber Security Program Plan" – RAI Numbers 7.1-87, 7.1-88, 7.1-89, 7.1-90, 7.1-91, 7.1-92, 7.1-93, 7.1-94, 7.1-95, 7.1-96, 7.1-97, and 7.1-98 Non-Proprietary Version."
- (3) In making this application for withholding of proprietary information of which it is the owner, 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, by the manager of the cognizant marketing function (or his delegate), and by the Legal Operation, 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 the models and methodologies GEH will use in developing a Cyber Security program for the ESBWR.

The development of the models and methodologies along with their application 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.

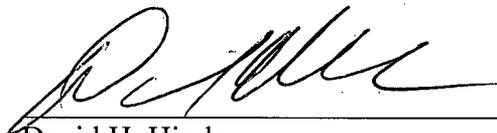
The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

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 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 2nd day of July 2008.



David H. Hinds
GE Hitachi Nuclear Energy