



South Texas Project Electric Generating Station P.O. Box 289 Wadsworth, Texas 77483

December 11, 2008
U7-C-STP-NRC-080068

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

South Texas Project
Units 3 and 4
Docket No. 52-012 and 52-013
Submittal of Combined License Application Part 10

- References: (1) Letter, M. A. McBurnett to NRC, "Submittal of Combined License Application Revision 2," dated September 24, 2008 (ABR-AE-08000073)
- (2) Letter, M. A. McBurnett to NRC, "Submittal of Combined License Application Revision 1," dated January 31, 2008 (ABR-AE-08000024)
- (3) Letter, M. A. McBurnett to NRC, "Combined License Application," dated September 20, 2007 (ABR-AE-07000004)

STP Nuclear Operating Company (STPNOC) hereby submits Part 10 to the South Texas Project Units 3 & 4 (STP 3 & 4) Combined License Application (COLA) as an enclosure to this letter. COLA Parts 1 through 9 were previously submitted as Revision 2 by Reference 1. COLA Part 10 supplements COLA Parts 1 through 9.

COLA Part 10 is a compilation of the proprietary information referenced in the reference ABWR Design Control Document and included in Part 2 of the STP 3 & 4 COLA. STPNOC requests that COLA Part 10 be withheld from public disclosure in accordance with 10 CFR 2.390. The information in COLA Part 10 is still covered by the affidavit that was submitted with Revision 0 on behalf of GEH. A copy of that affidavit is included in Attachment 1 for your convenience.

COLA Part 10 is being submitted to comply with Section IV.A.3 of the ABWR Design Certification Rule, when such information is omitted from Revision 3 of COLA Part 2. Section IV.A.3 of the ABWR Design Certification Rule requires that the plant-specific DCD physically include the proprietary and safeguards information referenced in the ABWR DCD. That proprietary information is provided in COLA Part 10, has finality in accordance with Section VI.B.2 of the ABWR Design Certification Rule, and does not constitute a supplement or departure from the reference ABWR DCD.

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NRO

This letter contains the following:

- Attachment 1 provides a copy of the GEH affidavit that was submitted with STP 3 & 4 COLA Revision 0 to request withholding of the information included in Part 10 (Reference 3). This information is still covered by the affidavit that was submitted with Revision 0 on behalf of GEH.
- Attachment 2 is a summary of the preflight evaluation performed for each .pdf file submitted in COLA Part 10.
- Two CDs which contain the electronic COLA Part 10:
 - The first CD, "Public Version," contains a complete non-proprietary version of the STP 3 & 4 COLA Part 10 suitable for public disclosure.
 - The second CD, "Proprietary Version," contains a complete STP 3 & 4 COLA Part 10 with proprietary information included.
 - Both CDs have been prepared in compliance with the Guidance for Electronic Submissions to the NRC, Revision 4 (October 29, 2008). The CDs contain the COLA Part 10 in .pdf format. All preflight checks have been performed on the .pdf files and the evaluations are summarized in Attachment 2. Each CD contains a packing slip explaining the contents.

There are no commitments in this letter.

If there are any questions, please contact me at (361) 972-7136 or Mr. Bill Mookhoek at (361) 972-7274.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12/11/08



Scott Head
Manager, Regulatory Affairs
South Texas Project Units 3 & 4

Attachments: As stated
Enclosures (CDs): As stated

cc: w/o attachment except*
(paper copy)

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Attachment 1

Affidavit for Withholding Proprietary Information
Under 10 CFR 2.390

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
STP Nuclear Operating Company) Docket Nos. PROJ0749
)
South Texas Project Units 3 and 4)

AFFIDAVIT

I, Joseph Savage, state as follows:

1. I am Manager, ABWR Regulatory Services, GE-Hitachi Nuclear Energy Americas LLC ("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 various sections of Part 2 of the Combined License Application (COLA), Revision 0, for South Texas Project Units 3 and 4. The proprietary information in the COLA is marked with the beginning designation [s#] and the ending designation [e#]. The # is a number between 1 and 7 corresponding to the NRC's guidance on categories of proprietary information defined in 10 CFR 2.390 and clarified by RIS-2004-11.
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, 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 information about the results of analytical models, methods and processes, including computer codes, which GEH has developed, obtained NRC approval of, and applied to perform evaluations of loss-of-coolant accident events in the GEH Boiling Water Reactor ("BWR").

The development and approval of the BWR loss-of-coolant accident analysis computer codes was achieved at a significant cost to GEH, on the order of several 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.

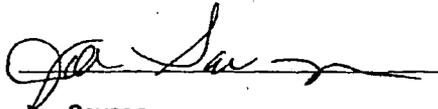
The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

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 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.

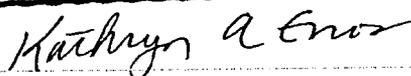
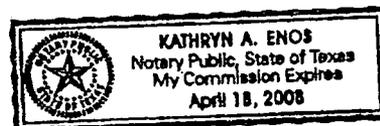
Executed on this 15th day of September 2007.



Joe Savage
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Attachment 2

Summary of Preflight Evaluations

Summary of Preflight Evaluations.

All submitted .pdf files were prepared with Adobe Acrobat Version 8 using the current Job Options file provided by the NRC on its web site. All files passed the preflight check (using the latest NRC preflight profile provided on its web site) except a few files that contained scanned pages that were processed by the Acrobat Optical Character Recognition (OCR) process. In these cases, an error is generated for lack of embedded fonts in the files. This is due to the known and documented inability of Acrobat to embed the fonts in a scanned and OCR processed file.