

May 27, 2009

Mr. Jerald G. Head  
Senior Vice President, Regulatory Affairs  
GE Hitachi Nuclear Energy  
3901 Castle Hayne Rd MC A-18  
Wilmington, NC 28401

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
(MFN 09-193)

Dear Mr. Head:

By letter dated March 20, 2009, and associated affidavit executed on March 20, 2009, by Larry J. Tucker, Mr. Tucker indicated that the information contained in "Transmittal of Loss of Coolant Accident Scenarios RADTRAD Computer Code Input Files," 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.

GEH has requested that the information be withheld in its entirety, therefore a nonproprietary copy is not available.

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 March 20, 2009, 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.

J. Head

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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 301-415-6715.

Sincerely,

*/RA/*

Bruce M. Bovol, 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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DC GE - ESBWR Mailing List

(Revised 04/01/2009)

cc:

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

Mr. Tom Sliva  
7207 IBM Drive  
Charlotte, NC 28262

## DC GE - ESBWR Mailing List

### Email

aec@nrc.gov (Amy Cabbage)  
APH@NEI.org (Adrian Heymer)  
art.alford@ge.com (Art Alford)  
awc@nei.org (Anne W. Cottingham)  
bevans@enercon.com (Bob Evans)  
BrinkmCB@westinghouse.com (Charles Brinkman)  
cberger@energetics.com (Carl Berger)  
charles.bagnal@ge.com  
charles@blackburncarter.com (Charles Irvine)  
chris.maslak@ge.com (Chris Maslak)  
CumminWE@Westinghouse.com (Edward W. Cummins)  
cwaltman@roe.com (C. Waltman)  
dan1.williamson@ge.com (Dan Williamson)  
Daniel.Chalk@nuclear.energy.gov (Daniel Chalk)  
david.hinds@ge.com (David Hinds)  
david.lewis@pillsburylaw.com (David Lewis)  
David.piepmeyer@ge.com (David Piepmeyer)  
donaldf.taylor@ge.com (Don Taylor)  
erg-xl@cox.net (Eddie R. Grant)  
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)  
GovePA@BV.com (Patrick Gove)  
greshaja@westinghouse.com (James Gresham)  
gzinke@entergy.com (George Alan Zinke)  
hickste@earthlink.net (Thomas Hicks)  
hugh.upton@ge.com (Hugh Upton)  
james.beard@gene.ge.com (James Beard)  
james.gleason@ge.com (James Gleason)  
jeff.waal@ge.com (Jeff Waal)  
jerald.head@ge.com (Jerald G. Head)  
Jerold.Marks@ge.com (Jerold Marks)  
jgutierrez@morganlewis.com (Jay M. Gutierrez)  
Jim.Kinsey@inl.gov (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)  
kimberly.milchuck@ge.com (Kimberly Milchuck)  
KSutton@morganlewis.com (Kathryn M. Sutton)

## DC GE - ESBWR Mailing List

kwaugh@impact-net.org (Kenneth O. Waugh)  
lchandler@morganlewis.com (Lawrence J. Chandler)  
lee.dougherty@ge.com  
lou.lanese@ge.com (Lou Lanese)  
Marc.Brooks@dhs.gov (Marc Brooks)  
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)  
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)  
patriciaL.campbell@ge.com (Patricia L. Campbell)  
paul.gaukler@pillsburylaw.com (Paul Gaukler)  
Paul@beyondnuclear.org (Paul Gunter)  
peter.yandow@ge.com (Peter Yandow)  
pshastings@duke-energy.com (Peter Hastings)  
rick.kingston@ge.com (Rick Kingston)  
RJB@NEI.org (Russell Bell)  
RKTemple@cpsenergy.com (R.K. Temple)  
Russell.Wells@Areva.com (Russell Wells)  
sabinski@suddenlink.net (Steve A. Bennett)  
sandra.sloan@areva.com (Sandra Sloan)  
sara.andersen@ge.com (Sara Anderson)  
SauerB@BV.com (Robert C. Sauer)  
sfrantz@morganlewis.com (Stephen P. Frantz)  
stephan.moen@ge.com (Stephan Moen)  
steven.hucik@ge.com (Steven Hucik)  
tdurkin@energetics.com (Tim Durkin)  
timothy1.enfinger@ge.com (Tim Enfinger)  
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)  
wayne.cutright@ge.com (Wayne Cutright)  
wayne.marquino@ge.com (Wayne Marquino)  
whorin@winston.com (W. Horin)