

**Southern Nuclear
Operating Company, Inc.**
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March 30, 2009

Docket No.: 50-366

NL-09-0415

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

Edwin I. Hatch Nuclear Plant - Unit 2
Re-review of Subject Information Provided with Respect to 10 CFR 2.390 as
Requested in NRC Draft SER Letter of February 12, 2009

Ladies and Gentlemen:

In the draft SER issued by the NRC on February 12, 2009, Southern Nuclear Operating Company (SNC) was requested by the NRC to provide the results of a re-review of the subject information with respect to the criteria of 10 CFR 2.390. This review and re-submittal was to assist in dispositioning the request to withhold information as proprietary that was contained in previous submittals from SNC.

As requested, GE-Hitachi and SNC have completed a review of the Hatch 2 Shroud Repair Replacement of Upper Support Stress Analysis Report which was previously submitted under SNC Letter NL-08-1301 dated September 3, 2008. It has been determined that some information previously identified as proprietary is no longer considered proprietary and the stress analysis report has been revised accordingly. It is requested that this document be removed from the public document room and that a non-proprietary version as enclosed, be substituted.

Enclosure 1 is a request from Mr. Tim Abney, Vice-President, Services Licensing, for the information contained therein to be withheld as proprietary pursuant to 10 CFR 2.390 and other NRC regulations. Enclosure 2 is the proprietary version of the stress analysis report, GE-NE-0000-0080-0259-P-R4. Enclosure 3 contains the non-proprietary version of the stress analysis report, GE-NE-0000-0080-0259-NP-4. The enclosed Rev 4 report replaces in total the previous version of the report.

As Enclosure 2 contains information proprietary to GE-Hitachi, it is supported by an affidavit signed by GEH, the owner of the information. The affidavit sets forth the basis on which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in paragraph (b)(4) of 10 CFR 2.390 of the Commission's regulations. Accordingly, it is respectfully requested that the information, which is proprietary to GEH, be withheld from public disclosure with 10 CFR 2.390 of the Commission's regulations.

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NRR

In performing this review, the responses dated December 19, 2008 (NL-08-1897) to the NRC request for additional information regarding modification of the core shroud stabilizer assemblies were also reviewed. This review determined that proprietary information had been inadvertently released to the public in Table 1, Governing Stresses for the Shroud Head Flange; Figure 1, Upper Support Displacement Under Normal (Sustained) Load; and Figure 2, Upper Support Vertical Displacement Under Faulted Load. Additionally, our letter of January 8, 2009, corrected an item appearing in the stress ratio column of Table 1. It is requested that these documents be removed from the public document room and that a non-proprietary version as enclosed, be substituted.

Enclosure 4 is a request for withholding from Mr. James F. Harrison, Vice-President, Fuels Licensing of GE-Hitachi for the information to be withheld as proprietary pursuant to 10 CFR 2.390 and other NRC regulations. Enclosure 5 is a proprietary version of the response to the RAI's. Enclosure 6 is the non-proprietary version of the response to the RAI's. Enclosure 7 is the proprietary version of the correction to the table, and Enclosure 8 is the non-proprietary version.

As Enclosure 5 contains information proprietary to GE-Hitachi, it is supported by an affidavit signed by GEH, the owner of the information. The affidavit sets forth the basis on which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in paragraph (b)(4) of 10 CFR 2.390 of the Commission's regulations. Accordingly, it is respectfully requested that the information, which is proprietary to GEH, be withheld from public disclosure with 10 CFR 2.390 of the Commission's regulations.

As requested by the NRC, this transmittal will complete the request by the NRC to provide the results of a re-review of the subject information with respect to the criteria of 10 CFR 2.390.

This letter contains no NRC commitments. If you have any questions, please advise Mr. R. D. Baker, Hatch Licensing Manager

Sincerely,



M. J. Ajluni
Manager, Nuclear Licensing

MJA/PAH/daj

Enclosures:

1. Affidavit for Withholding of Proprietary Information
2. GE-NE-0000-0080-0259-P-R4; Hatch 2 Nuclear Plant Shroud Repair Replacement of Upper Support Stress Analysis Report (Proprietary)
3. GE-NE-0000-0080-0259-NP-R4; Hatch 2 Nuclear Plant, Shroud Repair Replacement of Upper Support Stress Analysis Report (Nonproprietary)
4. Affidavit for Withholding of Proprietary Information
5. Proprietary Version of December 19, 2008 Submittal
6. Nonproprietary Version of December 19, 2008 Submittal
7. Proprietary Version of January 8, 2009 Submittal
8. Nonproprietary Version of January 8, 2009 Submittal

cc: Southern Nuclear Operating Company
Mr. J. T. Gasser, Executive Vice President
Mr. D. R. Madison, Vice President – Hatch
Ms. P. M. Marino, Vice President – Engineering
RTYPE: CHA02.004

U. S. Nuclear Regulatory Commission
Mr. L. A. Reyes, Regional Administrator
Mr. R. E. Martin, NRR Project Manager – Hatch
Mr. J. A. Hickey, Senior Resident Inspector – Hatch

Edwin I. Hatch Nuclear Plant - Unit 2

**Re-review of Subject Information Provided with Respect to 10CFR 2.390 As
Requested in NRC Draft SER Letter of February 12, 2009**

Enclosure 1

Affidavit for Withholding of Proprietary Information

GE-Hitachi Nuclear Energy Americas LLC

AFFIDAVIT

I, **Tim E. Abney**, state as follows:

- (1) I am Vice President, Services Licensing, GE-Hitachi Nuclear Energy Americas LLC (“GEH”). I 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 GEH proprietary report, GE-NE-0000-0080-0259-R4, “Hatch 2 Nuclear Plant Shroud Repair Replacement of Upper Support Stress Analysis Report,” Class III (GEH Proprietary Information), March 2009. GEH proprietary information in this report is identified by a dotted underline inside double square brackets [[This sentence is an example.⁽³⁾]]. In each case, the superscript notation ⁽³⁾ refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, 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 that 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 that reveals aspects of past, present, or future GEH customer-funded development plans and programs, resulting in potential products to GEH;
 - d. Information that 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 details of the analysis methods, loads, qualification criteria, and results of GEH stress analysis of replacement shroud support hardware as well as design details of the replacement hardware. Development of the methods, techniques, information, and their application for the stress analysis and the design of the replacement hardware were achieved at a significant cost to GEH.

The development of the analysis methods along with the interpretation and application of the analytical results to design the replacement hardware 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 and obtaining 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 4th day of March 2009.

A handwritten signature in black ink that reads "Tim E. Abney". The signature is written in a cursive style with a large, sweeping flourish at the end.

Tim E. Abney
Vice President, Services Licensing
GE-Hitachi Nuclear Energy Americas LLC