

March 7, 2011

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 10-033)

Dear Mr. Head:

By letter dated February 11, 2010, and associated affidavit executed on February 11, 2010, by Larry J. Tucker, Mr. Tucker indicated that the information contained in "Submittal of Licensing Topical Report NEDE-33276P, ESBWR Human Factors Engineering Verification and Validation Implementation Plan, Revision 4," 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 2 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. ML100480182).

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 February 11, 2010, 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.

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 301-415-6256.

Sincerely,

/RA/

Dennis Galvin, Project Manager
BWR Projects Branch
Division of New Reactor Licensing
Office of New Reactors

Docket No. 52-010

cc: See next page

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 301-415-6256.

Sincerely,

/RA/

Dennis Galvin, Project Manager
BWR Projects Branch
Division of New Reactor Licensing
Office of New Reactors

Docket No. 52-010

cc: See next page

DISTRIBUTION:

Hard Copy

BWR R/F

DGalvin

SGreen

ACubbage

E-Mail

BWR Group

RidsAcrcAcnwMailCenter

RidsOgcMailCenter

SMarshall, RES

RidsNroDcipColp

ADAMS ACCESSION NO. ML100610360

OFFICE	PM:BWR:DNRL	LA:BWR:DNRL	BC:COLP:DCIP	BC:BWR:DNRL
NAME	DGalvin	SCGreen	MAJunge	MTonacci
DATE	02/25/2011	03/04/2010	02/25/2011	03/07/2011

OFFICIAL RECORD COPY

DCWG - ESBWR Mailing List

(Revised 02/15/2011)

cc:

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

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

Mr. Tom Sliva
7207 IBM Drive
Charlotte, NC 28262

DCWG - ESBWR Mailing List

Email

aec@nrc.gov (Andrea Johnson)
annie@ieer.org (Annie Makhijani)
APH@NEI.org (Adrian Heymer)
Arjun@ieer.org (Arjun Makhijani)
awc@nei.org (Anne W. Cottingham)
bevans@enercon.com (Bob Evans)
BrinkmCB@westinghouse.com (Charles Brinkman)
cberger@energetics.com (Carl Berger)
charles@blackburncarter.com (Charles Irvine)
chris.maslak@ge.com (Chris Maslak)
CumminWE@Westinghouse.com (Edward W. Cummins)
cwaltman@roe.com (C. Waltman)
Daniel.Chalk@nuclear.energy.gov (Daniel Chalk)
david.lewis@pillsburylaw.com (David Lewis)
dcurran@harmoncurran.com (Diane Curran)
draleigh@scientech.com (Denna Raleigh)
gcesare@enercon.com (Guy Cesare)
GovePA@BV.com (Patrick Gove)
gzinke@entergy.com (George Alan Zinke)
hickste@earthlink.net (Thomas Hicks)
jbb@blackburncarter.com (Jim Blackburn)
jerald.head@ge.com (Jerald G. Head)
Jerold.Marks@ge.com (Jerold Marks)
Jim.Kinsey@inl.gov (James Kinsey)
jim.riccio@wdc.greenpeace.org (James Riccio)
joel.Friday@ge.com (Joel Friday)
Joseph_Hegner@dom.com (Joseph Hegner)
junichi_uchiyama@mnes-us.com (Junichi Uchiyama)
KSutton@morganlewis.com (Kathryn M. Sutton)
kwaugh@impact-net.org (Kenneth O. Waugh)
lchandler@morganlewis.com (Lawrence J. Chandler)
Marc.Brooks@dhs.gov (Marc Brooks)
maria.webb@pillsburylaw.com (Maria Webb)
marilyn.kray@exeloncorp.com
mark.beaumont@wsms.com (Mark Beaumont)
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)
Nuclaw@mindspring.com (Robert Temple)
patriciaL.campbell@ge.com (Patricia L. Campbell)
Paul@beyondnuclear.org (Paul Gunter)
pbessette@morganlewis.com (Paul Bessette)

DCWG - ESBWR Mailing List

pshastings@duke-energy.com (Peter Hastings)
Rebecca.Smith-Kevern@nuclear.energy.gov (Rebecca Smith-Kevern)
regservices@scientech.com (Reg Service)
rick.kingston@ge.com (Rick Kingston)
RJB@NEI.org (Russell Bell)
Russell.Wells@Areva.com (Russell Wells)
sabinski@suddenlink.net (Steve A. Bennett)
sandra.sloan@areva.com (Sandra Sloan)
sfrantz@morganlewis.com (Stephen P. Frantz)
sid.kere@dom.com (Sid Kere)
stephan.moen@ge.com (Stephan Moen)
steven.hucik@ge.com (Steven Hucik)
strambgb@westinghouse.com (George Stramback)
tdurkin@energetics.com (Tim Durkin)
trsmith@winston.com (Tyson Smith)
Vanessa.quinn@dhs.gov (Vanessa Quinn)
Wanda.K.Marshall@dom.com (Wanda K. Marshall)
wayne.marquino@ge.com (Wayne Marquino)
whorin@winston.com (W. Horin)