



HITACHI

Proprietary Notice

This letter forwards proprietary information in accordance with 10CFR2.390. Upon the removal of Enclosure 2, the balance of this letter may be considered non-proprietary.

GE Hitachi Nuclear Energy

Jerald G. Head
Senior Vice President, Regulatory Affairs

3901 Castle Hayne Road
PO Box 780 M/C A-18
Wilmington, NC 28402-0780
USA

T 910 819 5692
F 910 362 5692
gerald.head@ge.com

MFN 13-086, Supplement 1

Docket Number: 52-045

March 17, 2014

US Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555-0001

Subject: **NRC Review of GE Hitachi Nuclear Energy – United States Advanced Boiling Water Reactor (ABWR) Design Certification Renewal Application – Submittal Date for ABWR DCD Revision 6**

References:

- 1) Letter from R.E. Kingston, GEH to USNRC, Subject: ABWR Standard Plant Design Certification Renewal Application Design Control Document, Revision 5, Tier 1 and Tier 2, MFN 10-432, sent December 7, 2010.
- 2) Letter from USNRC to Jerald G. Head, GEH, Subject: GE-Hitachi Nuclear Energy – United States Advanced Boiling-Water Reactor Design Certification Renewal Application, received July 20, 2012.
- 3) Letter from Jerald G. Head, GEH, to USNRC, Subject: Response to NRC Letter: GE Hitachi Nuclear Energy – United States Advanced Boiling-Water Reactor Design Certification Renewal Application (July 20, 2012), MFN 12-110, sent December 7, 2012.
- 4) Letter from Jerald G. Head, GEH, to USNRC, Subject: NRC Review of GE Hitachi Nuclear Energy – United States Advanced Boiling Water Reactor Design Certification Renewal Application (July 20, 2012), MFN 13-086, sent October 31, 2013.

GEH submitted a Design Certification Renewal application for the U.S. Advanced Boiling Water Reactor (ABWR) in Reference 1 pursuant to the requirements of Subpart B, “Standard Design Certifications,” of Title 10 of the Code of Federal Regulations (10 CFR) Part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants.”

In Reference 2, the NRC suggested design changes to address issues that the agency considered to be regulatory improvements or changes that could meet the 10 CFR 52.59(b) criteria. In addition, the NRC requested that GEH implement the Fukushima Near-Term Task Force recommendations contained in SECY-12-0025, "Proposed Orders and Requests for Information in Response to Lessons Learned from Japan's March 11, 2011, Great Tohoku Earthquake and Tsunami," dated February 17, 2012. Collectively, these items are termed the "28-item backfit list".

In Reference 3, GEH responded to Reference 2 and committed to address the 28 backfit items and to submit Revision 6 of the ABWR Design Control Document (DCD) no later than the second quarter of 2014.

In Reference 4, GEH committed to address the 28 backfit items identified in Reference 2 via two revisions of the ABWR DCD, Revisions 6 and 7, and to provide its schedule for ABWR DCD Revision 6 submission to the NRC by March 17, 2014.

The purpose of this letter is to advise the NRC of GEH's plan to submit the ABWR DCD Revision 6 no earlier than May 29, 2015. Enclosure 1, "ABWR Design Certification Renewal Application Considerations," documents the considerations that were used in this determination. For details, please see Enclosure 2 of this letter, "ABWR Design Certification Renewal Application – Revision 6 Schedule and Scope Description". Since the entirety of Enclosure 2 is deemed GEH proprietary information, GEH is not submitting a public version of Enclosure 2.

Please note that, at this time, GEH is neither requesting nor authorizing NRC to review the scope descriptions in Enclosure 2, pending further discussions at a proposed meeting in April 2014.

In addition, GEH plans to provide a submittal date for Revision 7 of the ABWR DCD addressing items 11, 14 through 20, and 25 from the 28-item backfit list at the same time as GEH submits Revision 6 of the DCD.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerald Head". The signature is written in a cursive, flowing style.

Jerald G. Head
Senior Vice President, Regulatory Affairs

Commitments:

1. Submit ABWR DCD Revision 6 by May 29, 2015.
2. Provide submittal date for ABWR DCD Revision 7 by May 29, 2015.

Enclosures:

1. ABWR Design Certification Renewal Application Considerations
2. ABWR Design Certification Renewal Application – Revision 6 Schedule and Scope Description
3. Affidavit for MFN 13-086, Supplement 1

cc: David Sledzik, GEH
Peter Yandow, GEH
Patricia Campbell, GEH
Shailesh R. Sheth, GEH
Hugh A. Upton, GEH
David Hinds, GEH
James A. Beard, GEH
Gary L. Miller, GEH
Tim Enfinger, GEH
Lisa Schichlein, GEH
PLM Specification: 0000N6266 R0

Enclosure 1

MFN 13-086, Supplement 1

ABWR Design Certification Renewal Application Considerations

Public Information

IMPORTANT NOTICE REGARDING CONTENTS OF THIS DOCUMENT

Please Read Carefully

The information contained in this document is furnished solely for the purpose(s) stated in the transmittal letter. The only undertakings of GEH with respect to information in this document are contained in the contracts between GEH and its customers or participating utilities, and nothing contained in this document shall be construed as changing that contract. The use of this information by anyone for any purpose other than that for which it is intended is not authorized; and with respect to any unauthorized use, GEH makes no representation or warranty, and assumes no liability as to the completeness, accuracy, or usefulness of the information contained in this document.

GEH intends to submit Revision 6 of the ABWR DCD no earlier than May 29, 2015. Revision 6 of the ABWR DCD will address Reference 2 Items 1 through 10, 12, 13, 21 through 24, and 26 through 28. The remaining items from the 28-item list will be addressed in Revision 7 of the ABWR DCD. Please note that Items 18 through 20 that were earlier planned to be addressed in Revision 6 are now intended to be addressed in Revision 7. Item 26 that was earlier planned to be addressed in Revision 7 is currently planned to be addressed in Revision 6.

GEH would like to reiterate key points discussed in recent teleconferences with the NRC regarding our ABWR Certification Renewal Application and clarify certain additional points:

1. GEH intends to revise the ABWR DCD with information that corrects, or updates, or revises the DCD to address the 28 items identified in Reference 2. This would be accomplished by text revision or by the addition of COL items. Specifically, our schedule for Revision 6 submission is predicated against planned work aligned with the scopes defined by each item as laid out in Enclosure 2 of this letter: "ABWR Design Certification Renewal Application – Revision 6 Schedule and Scope Description".

GEH would like to request a meeting with the NRC in April 2014 to jointly review the scope of Revision 6 work defined in Enclosure 2. Based on the outcome of such meeting(s), and as Revision 6 work proceeds internally, GEH expects to be able to specify the actual date of Revision 6 submission to the NRC towards the end of the Third Quarter in 2014.

2. Based on teleconference discussions with the NRC, it is our understanding that for a DCD Renewal Application, the review will be limited by intent to those 28 items that have been identified in Reference 2, and further that the staff will plan to only review the proposed delta changes in those items relative to the ABWR Certified Design. It has been communicated to GEH that characterization of items as a Modification or an Amendment, as outlined in ML103140050-DRAFT Review Guidelines, will be required. GEH intends to comply with this request (as well as with the other submission requirements in ML103140050-DRAFT Review Guidelines) and suggests that this be discussed for each item in further detail during the proposed meeting in April 2014.
3. As explained in Reference 4, Revision 7 of the ABWR DCD will follow Revision 6 based on the outcome of two concurrent but relatively independent detailed reviews that have the potential to impact GEH's response on Revision 7 items. The two ongoing reviews of the ABWR design that can potentially impact ABWR DCD Revision 7 items are being conducted by: (1) the ABWR Working Group under the Multinational Design Evaluation Program; and, (2) UK's Office of Nuclear Regulation under their Generic Design Assessment process.

GEH proposes meeting(s) with the NRC sometime during early Fourth Quarter in 2014 to update the NRC on the status of the detailed ABWR design reviews and potential design impacts and to discuss potential approaches and submission timeline for Revision 7 of the ABWR DCD.

Enclosure 3

MFN 13-086, Supplement 1

Affidavit

GE-Hitachi Nuclear Energy Americas LLC

AFFIDAVIT

I, **Jerald G. Head**, state as follows:

- (1) I am the Senior Vice President, Regulatory Affairs of 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 Enclosure 2 of GEH's letter MFN 13-086, Supplement 1, Jerald G. Head (GEH) to USNRC, "NRC Review of GE Hitachi Nuclear Energy – United States Advanced Boiling Water Reactor (ABWR) Design Certification Renewal Application – Submittal Date for ABWR DCD Revision 6," March 17, 2014. The GEH proprietary information in Enclosure 2 of MFN 13-086, Supplement 1, "ABWR Design Certification Renewal Application – Revision 6 Schedule and Scope Description," is identified by a [[dark red, dotted underline inside double square brackets^{3}]].
- (3) In making this application for withholding and determination 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 qualifies 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, 975 F2d 871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704 F2d 1280 (DC Cir. 1983).
- (4) The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a and (4)b. 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 GEH and/or other companies.
 - b. Information that, if used by a competitor, would reduce their expenditure of resources or improve their 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, that may include potential products of GEH.

- d. Information that discloses trade secret and/or potentially patentable subject matter for which it may be desirable to obtain patent protection.
- (5) To address 10 CFR 2.390(b)(4), the information sought to be withheld is being submitted to the 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, not been disclosed publicly, and not been made available in public sources. All disclosures to third parties, including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary and/or confidentiality agreements that provide for maintaining the information in confidence. The initial designation of this information as proprietary information and the subsequent steps taken to prevent its unauthorized disclosure are as set forth in the following paragraphs (6) and (7).
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, who is the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or who is the person most likely to be subject to the terms under which it was licensed to GEH. Access to such documents within GEH is limited to 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 and/or confidentiality agreements.
- (8) The information identified in paragraph (2) above is classified as proprietary because it communicates sensitive business information regarding commercial communications, plans, and strategies associated with future actions related to GEH's extensive body of ESBWR technology, design, and regulatory information and its protection is important to the design certification process.
- (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, belief.

Executed on this 17th day of March, 2014.



Jerald G. Head
GE-Hitachi Nuclear Energy Americas LLC