GE Hitachi Nuclear Energy

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Subject: GEH Request for NRC to Retire the ESBWR Final Design Approval Upon Issuance of the ESBWR Final Design Certification Rule

Reference: Letter from Michael R. Johnson, NRC Director, Office of New Reactors, to Jerald G. Head, GE Hitachi Nuclear Energy, Sr. Vice President, Regulatory Affairs, "Final Design Approval for the Economic Simplified Boiling Water Reactor," dated March 9, 2011 (ADAMS Accession Number ML110540310)

GE Hitachi Nuclear Energy (GEH) requests that the NRC retire the ESBWR Final Design Approval (FDA) issued March 9, 2011, in the referenced letter, upon issuance of the ESBWR final design certification rule.

GE Nuclear Energy (the predecessor of GEH) submitted the ESBWR design certification application August 24, 2005, which the NRC accepted for review by letter dated December 1, 2005 (ADAMS Accession Number ML053200311). At the time of submittal, the NRC regulations in 10 CFR Part 52 required that an applicant for a design certification include an application for a final design approval under 10 CFR Part 52, Appendix O. Subsequently, in amendments to 10 CFR Part 52 issued August 28, 2007, the requirements formerly located in 10 CFR §§ 52.43(c), 52.45(c), and 52.47(b)(2)(ii) were removed because the Commission decided not to require an FDA as a prerequisite for certification of a standard plant design (see 72 Fed.Reg. 49352, 49379). The NRC issued an FDA in the referenced letter based on Revision 9 of the ESBWR Design Control Document, which has since been superseded by Revision 10 (April 2014) as referenced in the NRC supplemental proposed rule (79 Fed.Reg. 25715, May 6, 2014). Maintaining the FDA, as issued, could create conflicting requirements.

Because the FDA is no longer a prerequisite for a design certification and the ESBWR design certification rule will be based on a later revision of the Design Control Document, GEH formally requests that the NRC retire the ESBWR FDA at the time of issuance of the ESBWR final rule to avoid potential conflicts in future references to the standard design of the ESBWR. Once the design certification rule is final, GEH will reference the certified design rather than the FDA.

Please direct questions or comments regarding this matter to Patricia Campbell at 202-637-4239.

Sincerely,

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