

~~Proprietary – Withhold under 10 CFR 2.390. Enclosure 1 contains PROPRIETARY information.~~



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February 16, 2017

GO2-17-049

10 CFR 50.90

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

Subject: **COLUMBIA GENERATING STATION, DOCKET NO. 50-397
RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION,
COLUMBIA MUR LAR EVIB RAIS**

- References:
1. Letter GO2-16-096 from A. L. Javorik (Energy Northwest) to NRC: "License Amendment Request to Revise Operating License and Technical Specifications for Measurement Uncertainty Recapture (MUR) Power Uprate," dated June 28, 2016 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16183A365)
 2. Letter GO2-16-124 from A. L. Javorik (Energy Northwest) to NRC: "Response to License Amendment Request - Opportunity to Supplement," dated August 18, 2016 (ADAMS ML16231A511)
 3. E-mail from J. Klos (NRC) to R. M. Garcia (Energy Northwest) "Columbia MUR LAR EVIB RAIS Formal Issuance, Proprietary Version," dated December 21, 2016

Dear Sir or Madam:

By Reference 1, Energy Northwest submitted a license amendment for Columbia Generating Station (Columbia) to recapture certain measurement uncertainty as a power uprate. By Reference 2, Energy Northwest supplemented the original request. In Reference 3, the NRC requested additional information related to Reference 1. The enclosure to this letter contains the information requested in Reference 3. A clarification call was held on December 14, 2016.

Enclosure 1 to this letter contains proprietary information as defined by 10 CFR 2.390. GE-Hitachi Nuclear Energy Americas LLC (GEH), as the owner of the proprietary information, has executed the affidavit attached to this letter, which identifies that the

When Enclosure 1 is removed from this letter, the letter and remaining document is NON-PROPRIETARY.

enclosed proprietary information has been handled and classified as proprietary, is customarily held in confidence, and has been withheld from public disclosure. The proprietary information was provided to Energy Northwest in a GEH transmittal that is referenced by the affidavit. The proprietary information has been faithfully reproduced in the enclosed such that the affidavit remains applicable. GEH hereby requests that the enclosed proprietary information be withheld from public disclosure in accordance with the provisions of 10 CFR 2.390 and 9.17. Information that is not considered proprietary is provided in Enclosure 2.

The No Significant Hazards Consideration Determination (NSHCD) provided in the original submittal is not altered by this submittal. This letter contains no regulatory commitments

If you have any questions or require additional information, please contact Mr. R. M. Garcia at (509) 377-8463.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of February, 2017.

Respectfully,



A. L. Javorik
Vice President, Engineering

Attachment: As stated

Enclosures: As stated

cc: NRC RIV Regional Administrator
NRC NRR Project Manager
NRC Senior Resident Inspector/988C w/o enclosures
EFSECutc.wa.gov-- EFSEC (email)
CD Sonoda – BPA/1399 (email) w/o enclosures
WA Horin – Winston & Strawn w/o enclosures
RR Cowley -WDOH (email) w/o enclosures

Attachment
Affidavit for Withholding

GE-Hitachi Nuclear Energy Americas LLC

AFFIDAVIT

I, **Lisa K. Schichlein**, state as follows:

- (1) I am a Senior Project Manager, NPP/Services Licensing, Regulatory Affairs, 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 1 of GEH letter, DOC-0001-1115-124, "GEH Responses to CGS MUR EVIB RAIs 3.2-2 through 3.2-4," dated February 8, 2017. The GEH proprietary information in Enclosure 1, which is entitled "Response to EVIB RAIs 3.2-2 through 3.2-4 in Support of the CGS MUR LAR," is identified by a dotted underline inside double square brackets. [[This sentence is an example.⁽³⁾]] GEH proprietary information in figures and large objects is identified with double square brackets before and after the object. 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 U.S.C. Sec. 552(b)(4), and the *Trade Secrets Act*, 18 U.S.C. 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 F.2d 871 (D.C. Cir. 1992), and Public Citizen Health Research Group v. FDA, 704 F.2d 1280 (D.C. 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 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, resulting in potential products to GEH;
 - d. Information that discloses trade secret or potentially patentable subject matter for which it may be desirable to obtain patent protection.

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- (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, 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 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.
- (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 or confidentiality agreements.
- (8) The information identified in paragraph (2), above, is classified as proprietary because it contains the detailed GEH methodology for thermal power optimization for GEH Boiling Water Reactors (BWRs). Development of these methods, techniques, and information and their application for the design, modification, and analyses methodologies and processes was achieved at a significant cost to GEH.

The development of the evaluation processes along with the interpretation and application of the analytical results is derived from the extensive experience and information databases that constitute 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

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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 is true and correct.

Executed on this 7th day of February 2017.



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