

UNITED STATES NUCLEAR REGULATORY COMMISSION

In the Matter of)
Niagara Mohawk Power Corporation) Docket No. 50-220
Nine Mile Point Nuclear Station Unit No. 1)

APPLICATION FOR AMENDMENT TO OPERATING LICENSE

Pursuant to Section 50.90 of the Regulations of the Nuclear Regulatory Commission, Niagara Mohawk Power Corporation, holder of Facility Operating License No. DPR-63, hereby requests that Section 2.1.2, "Fuel Cladding Integrity," Section 3.6.2/4.6.2, "Protective Instrumentation," of the Technical Specifications and the associated Bases set forth in Appendix A to that license be amended. The proposed changes have been reviewed in accordance with Section 6.5 of the Technical Specifications.

Limiting Safety System Setting 2.1.2.a, "Fuel Cladding Integrity," Table 4.6.2a, "Instrumentation that Initiates Scram," and Tables 3.6.2g/4.6.2g, "Instrumentation that Initiates Control Rod Withdrawal Block," are proposed for revision to extend the calibration frequency of the reactor recirculation flow transmitters from once each quarter to once per operating cycle and for the square rooters and summers from once per quarter to once per year. Changes to the flow biased APRM scram and rod block, recirculation flow comparator and flow unit upscale setpoints and the Bases for Sections 2.1.2, 2.2.2 and 3.6.2/4.6.2 are also enclosed.

The proposed changes would not authorize any change in the types of effluents or in the authorized power level of the facility. Supporting information and analyses which demonstrate that the proposed changes involve no significant hazards consideration pursuant to 10 CFR 50.92 are included as Attachment B.

WHEREFORE, Applicant respectfully requests that Appendix A to Facility Operating License No. DPR-63 be amended in the form attached hereto as Attachment A.

NIAGARA MOHAWK POWER CORPORATION

By C. D. Terry
Vice President - Nuclear Engineering

Subscribed and sworn to before me on this 23rd day of December 1994.

Joanne M. Watts
NOTARY PUBLIC

JOANNE M. WATTS
Notary Public, State of New York
No. 4822327
Qualified in Oswego County
Commission Expires May 31, 1996

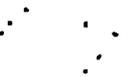
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ATTACHMENT D

**Niagara Mohawk Power Corporation
License No. DPR-63
Docket No. 50-220**

General Electric Affidavit

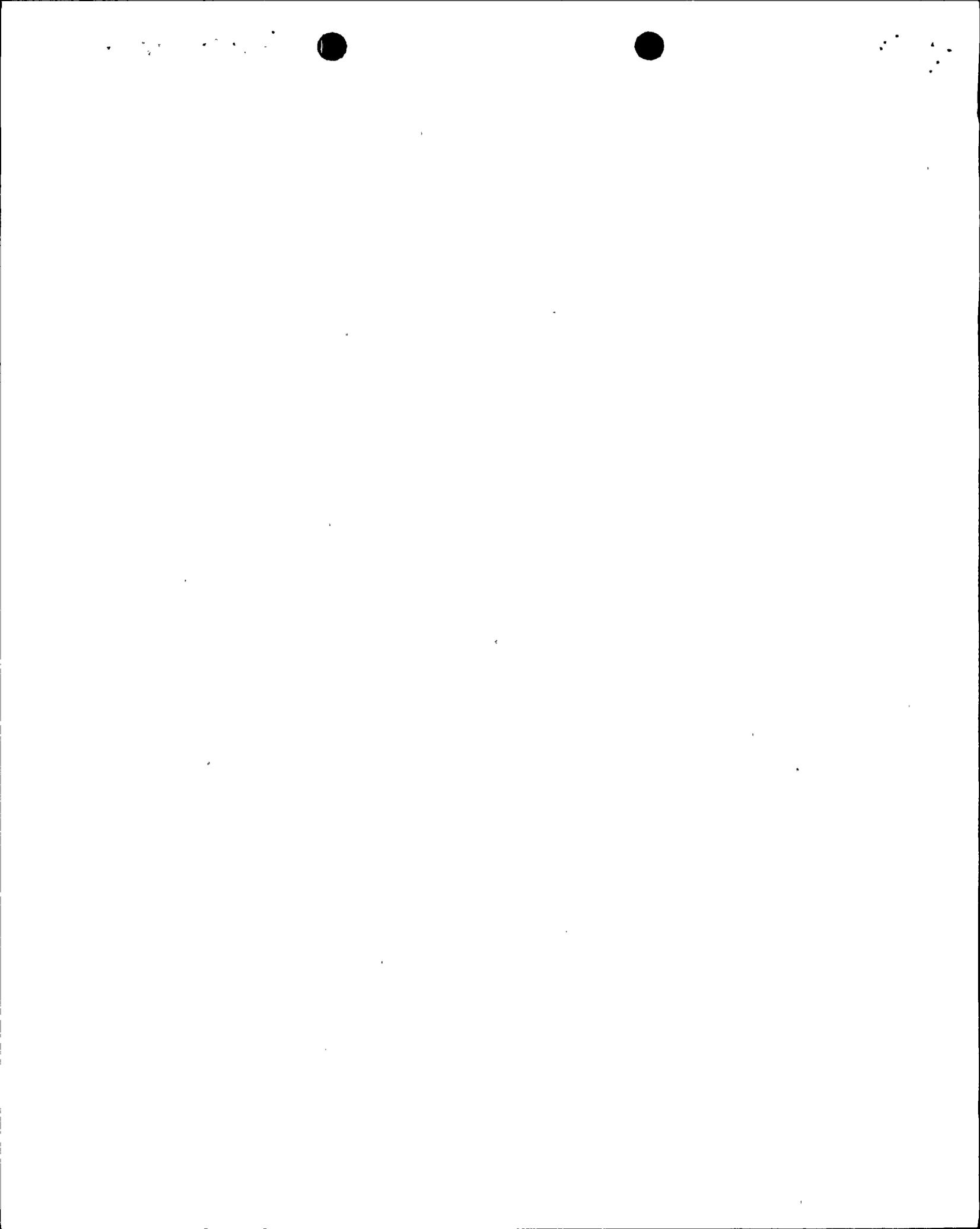


General Electric Company

AFFIDAVIT

I, Joseph F. Quirk, being duly sworn, depose and state as follows:

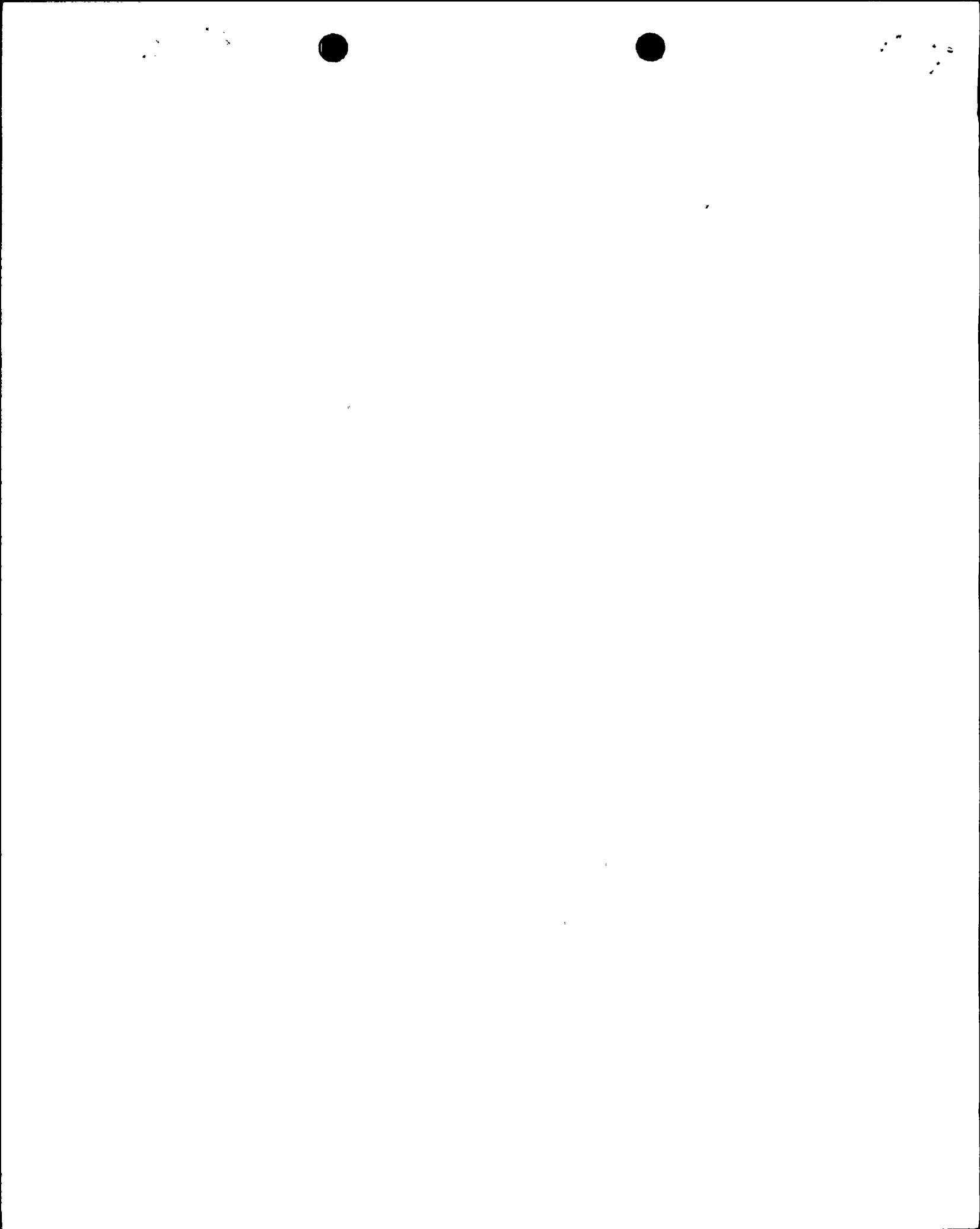
- (1) I am Projects Manager, General Electric Company ("GE") and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in the GE proprietary report GE-NE-208-22-1193, *Recirculation Flow Unit Surveillance Frequency Extension Analysis for Niagara Mohawk Power Corporation, Nine Mile Point Unit One*, (GE Proprietary Information), approved in December 1994. The proprietary information is delineated by bars marked in the margin adjacent to the specific material.
- (3) In making this application for withholding of proprietary information of which it is the owner, GE 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), 2.790(a)(4), and 2.790(d)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Example 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions 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 which 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 uses by General Electric's competitors without license from General Electric constitutes a competitive economic advantage over other company;
 - b. Information which, if used by a competitor, would reduce his expenditure of resource or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product;



- c. Information which reveals cost or price information, production capacities, budget levels, or commercial strategies of General Electric, its customers, or its suppliers;
- d. Information which reveals aspects of past, present, or future General Electric customer-funded development plans and programs, of potential commercial value to General Electric;
- e. Information which 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 both paragraphs (4)a. and (4)b., above.

- (5) The information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GE, 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 GE, 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 project manager, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within GE 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 and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GE 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 detailed results of analytical models, methods, and processes, including computer codes, which GE has developed, obtained NRC approval of, and applied to perform setpoint related calculations using the GE developed methodology.



The development and approval of the GE setpoint methodology used in this analysis was achieved at a significant cost, on the order of a million dollars, to GE.

The development of the evaluation process along with the interpretation and application of the analytical results is derived from the extensive experience database that constitutes a major GE asset.

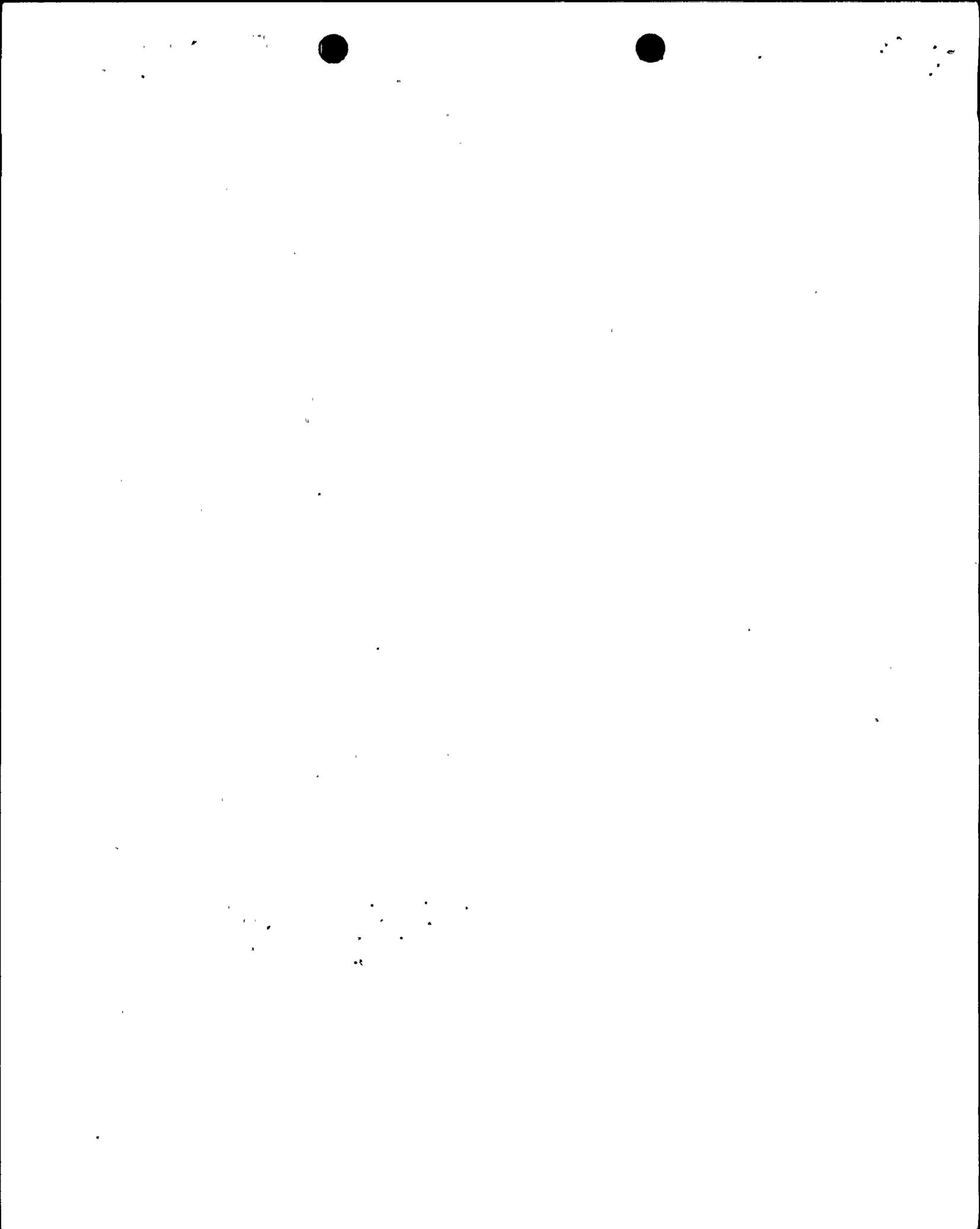
- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GE's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GE's comprehensive BWR safety and technology base, and its commercial value extends beyond the original development cost. The value of 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 GE.

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.

GE's competitive advantage will be lost if its competitors are able to use the results of the GE 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 GE 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 GE of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing these very valuable analytical tools.



STATE OF CALIFORNIA)
)
) SS:
COUNTY OF SANTA CLARA)

Joseph F. Quirk, being duly sworn, deposes and says:

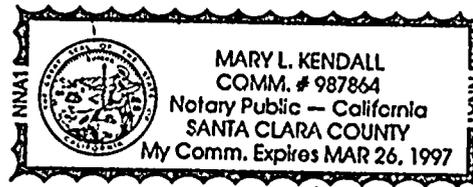
That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

Executed at San Jose, California, this 21st day of December, 1994.

Joseph F. Quirk
Joseph F. Quirk
General Electric Company

Subscribed and sworn before me this 21st day of December, 1994.

Mary L. Kendall
Notary Public, State of California



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