

GENERAL ELECTRIC

NUCLEAR POWER

SYSTEMS DIVISION
MFN-~~II~~-82

GENERAL ELECTRIC COMPANY, 175 CURTNER AVE., SAN JOSE, CALIFORNIA 95125
MC 682, (408) 925-3392

August 13, 1982

U.S. Nuclear Regulatory Commission
Office of Nuclear Reactor Regulation
Division of Systems Integration
Washington, DC 20555

Attention: C. H. Berlinger, Chief
Core Performance Branch

Gentlemen:

SUBJECT: VERMONT YANKEE DATA

At the NRC's request, the reactor noise data tapes from the Vermont Yankee stability test performed in March 1981, will be provided to the NRC and the NRC's contractor, Oak Ridge National Laboratory (ORNL). This is information which is commercially valuable to GE and which it normally treats as confidential and protects from public disclosure. An affidavit supporting its proprietary nature is enclosed.

The data are released for NRC use on the basis of the following agreement reached at an August 13, 1982 meeting between GE and the NRC;

- 1) The NRC and its contractors shall take all necessary step to maintain and use the data in confidence and it shall be used only to assess noise analysis techniques. It will not be used to develop stability models or monitoring hardware which could compete with possible commercial offerings by GE.
- 2) The data will be reduced by ORNL (Power Spectral Density, Cross Spectral Density, Coherence Functions, and Decay Ratios generated) and immediately returned to GE and no copies shall be made.
- 3) GE will review drafts and final copies of all documents resulting either directly or indirectly from the use of this data by the NRC or any of its contractors including ORNL.

We believe that these conditions are consistent with the NRC's planned use of the data as well as GE's desire to maintain its confidential nature.

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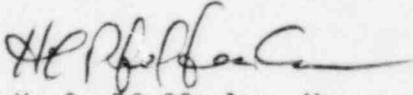
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If you have any questions or comments, please contact me on
(408) 925-3392.

Very truly yours,



H. C. Pfefferlen, Manager
BWR Licensing Programs
Nuclear Safety and Licensing Operation

HCP:lm/8G

cc: L. S. Gifford (GE-Bethesda)
L. E. Phillips (NRC)
L. S. Rubenstein (NRC)

GENERAL ELECTRIC COMPANY

AFFIDAVIT

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

1. I am Manager of BWR Systems Licensing, General Electric Company, 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 described in the letter transmitting this affidavit. It consists of the reactor noise data tapes from a stability test program conducted at Vermont Yankee performed in March 1981.
3. In designating material as proprietary, General Electric utilizes the definition of proprietary information and trade secrets set forth in the American Law Institute's Restatement Of Torts, Section 757. This definition provides:

"A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.... A substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring information.... Some factors to be considered in determining whether given information is one's trade secret are: (1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others."
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 where prevention of its use by General Electric's competitors without license from General Electric constitutes a competitive economic advantage over other companies;
 - b. Information consisting of supporting data and analyses, including test data, relative to a process, method or apparatus, the application of which provide a competitive economic advantage, e.g., by optimization or improved marketability;

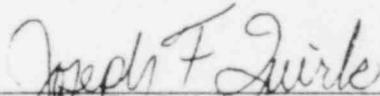
- c. Information which if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality or licensing of a similar product;
 - d. Information which reveals cost or price information, production capacities, budget levels or commercial strategies of General Electric, its customers or suppliers;
 - e. Information which reveals aspects of past, present or future General Electric customer-funded development plans and programs of potential commercial value to General Electric;
 - f. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection;
 - g. Information which General Electric must treat as proprietary according to agreements with other parties.
5. In addition to proprietary treatment given to material meeting the standards enumerated above, General Electric customarily maintains in confidence preliminary and draft material which has not been subject to complete proprietary, technical and editorial review. This practice is based on the fact that draft documents often do not appropriately reflect all aspects of a problem, may contain tentative conclusions and may contain errors that can be corrected during normal review and approval procedures. Also, until the final document is completed it may not be possible to make any definitive determination as to its proprietary nature. General Electric is not generally willing to release such a document to the general public in such a preliminary form. Such documents are, however, on occasion furnished to the NRC staff on a confidential basis because it is General Electric's belief that it is in the public interest for the staff to be promptly furnished with significant or potentially significant information. Furnishing the document on a confidential basis pending completion of General Electric's internal review permits early acquaintance of the staff with the information while protecting General Electric's potential proprietary position and permitting General Electric to insure the public documents are technically accurate and correct.
6. Initial approval of proprietary treatment of a document is made by the Subsection Manager of the originating component, the man most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within the Company is limited on a "need to know" basis and such documents at all times are clearly identified as proprietary.
7. The procedure for approval of external release of such a document is reviewed by the Section Manager, Project Manager, Principal Scientist or other equivalent authority, by the Section Manager of the cognizant Marketing function (or his delegate) and by the Legal

Operation for technical content, competitive effect and determination of the accuracy of the proprietary designation in accordance with the standards enumerated above. Disclosures outside General Electric are generally limited to regulatory bodies, customers and potential customers and their agents, suppliers and licensees only in accordance with appropriate regulatory provisions or proprietary agreements.

8. The document mentioned in paragraph 2 above has been evaluated in accordance with the above criteria and procedures and has been found to contain information which is proprietary and which is customarily held in confidence by General Electric.
9. Public disclosure of the information sought to be withheld is likely to cause substantial harm to the competitive decision of the General Electric Company and eliminate or reduce the possibility of profit making opportunities. The information is part of a General Electric technology base, and the precise value of this information extends far beyond the original development costs. The direct cost to General Electric to obtain these data was \$680,000. The value of this information is clearly substantial and would be a loss to General Electric if the information referenced in Paragraph 2 above were disclosed to the public.

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.

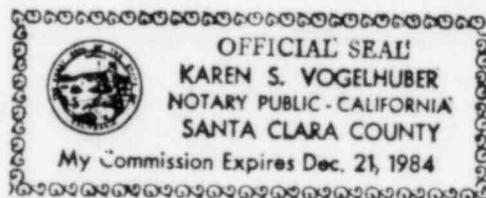
Executed at San Jose, California, this 11 day of August, 1982.

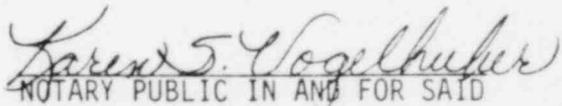


Joseph F. Quirk
General Electric Company

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) ss:

Subscribed and sworn before me this 11 day of August 1982.





NOTARY PUBLIC IN AND FOR SAID
COUNTY AND STATE

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8/11/82