



General Electric Company  
175 Curtner Avenue, San Jose, CA 95125

MFN-082-94

Sheet 1

July 27, 1994

Document Control Desk  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

**Subject:** Licensing Topical Report (NEDC-32343P) Submittal

**References:** 1. GE Nuclear Energy, "Criteria For Deleting Non-Safety Basis NRC Commitments and USAR Information," NEDC-32343P, Class III (GE Proprietary), May 1994, and NEDO-32343, Class I (non-proprietary), June 1994.

Enclosed are five (5) copies of the non-proprietary version and ten (10) copies of the GE Proprietary version of the Reference 1 GE Licensing Topical Report (LTR). NEDC-32343P is submitted for USNRC review and approval. Also, attached is an affidavit required for the GE Proprietary version (NEDC-32343P) of the report.

The LTR provides a generic approach with associated acceptance criteria for changing or deleting nonsafety significant licensing commitments and nonsafety significant information from Updated FSARs (USARs). PECO Energy, the operators of both Limerick and Peach Bottom plants, has indicated a desire to utilize the LTR's methodology upon its approval. PECO Energy has estimated that the USAR reduction process alone would save \$50,000 per year for each of its plants. The other plants have expressed interest in the methodology, assuming the NRC has approved the use of the LTR. Therefore, this program is defined as a Cost Beneficial Licensing Action (CBLA), and thus, GE is requesting a NRC review priority of 3.

The Nuclear Energy Institute (NEI) currently has its "Commitment Definition and Change Process" program under NRC review. NEI process uses newer probabilistic risk methodology to determine if changing a licensing commitment is significant to safety. The GE LTR provides more familiar and cost effective deterministic criteria, which are based on existing regulatory information, for determining if deleting or changing a licensing commitment is significant to safety. GE's process can be used to supplement the NEI process. The reporting requirements in the NEI and GE processes are almost identical. Thus, the GE LTR provides an alternate

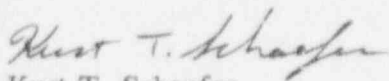
9407290197 940727  
PDR TDPFR EMVGENE  
C PDR

Two RDS distributions  
T008 1/5 T007 1/11

approach to the NEI process, while not conflicting with the NEI process. Therefore, GE believes that the NRC's review of the LTR should not be dependent on the NRC's review of the NEI program.

We are looking forward to working with the NRC to obtain concurrence and approval.

Sincerely,



Kurt T. Schaefer  
Regulatory Services  
(408) 925-2443

enclosures: 15

cc: Office of the Controller  
License Fee and Debt Collection Branch  
(w/o enclosure)

Eugene V. Imbro (w/ copy of NEDC-32343P)

## General Electric Company

### AFFIDAVIT

I, **George B. Stramback**, being duly sworn, depose and state as follows:

- (1) I am Project Manager, Licensing Services, 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 NEDC-32343P, *"Criteria For Deleting Non-Safety Basis Licensing Commitments and USAR Information,"* Class III (GE Company Proprietary Information), dated July 1994. This document, taken as a whole, constitutes a proprietary compilation of information, some of the information is independently proprietary, prepared by the General Electric Company. The independently 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" (Exemption 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 use by General Electric's competitors without license from General Electric constitutes a competitive economic advantage over other companies;

- b. 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;
- 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.

Both the compilation as a whole and the marked independently proprietary elements incorporated in that compilation are considered proprietary for the reason described in items (4)a., (4)b. and (4)d., above.

- (5) The information sought to be withheld is being submitted to NRC in confidence. That information (both the entire body of information in the form compiled in this document, and the marked individual proprietary compilations or elements) is of a sort customarily held in confidence by GE, and has, to the best of my knowledge, consistently been held in confidence by GE, has not been publicly disclosed, and 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 manager of the originating component, 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, by the 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. 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 by bars in the margin (classified as proprietary) was developed and compiled by GE from 1989 to 1994 at a significant cost to GE. This information identified in paragraph (2), above, is classified as proprietary because it constitutes a confidential compilation of information. This compilation including detailed criteria and processes, which represent, as a whole, an integrated process or approach which GE has developed, intends to obtain NRC approval of, and intends to apply in performing evaluations to justify the changes to or deletion of the non-safety licensing commitments and non-safety Updated Safety Analysis Report (USAR) information. The approval of this overall approach will be achieved at a significant additional cost to GE, over and above the very large cost of developing the underlying individual proprietary compilations.

To delete information from the licensing basis of a plant requires a thorough evaluation using criteria that maintains the plant's licensed safety basis. The process to perform and document these evaluations for deleting non-safety items was developed at a substantial investment in GE resources and expertise. The results from these evaluations will identify those licensing commitments and USAR information that can be change/deleted without affecting plant safety. The proprietary information forms the basis for GE's offerings to support utilities in providing licensing consulting services. Clearly, the scope and magnitude of effort of any attempt by a competitor to perform a similar licensing program can be narrowed considerably based upon these criteria. Having invested in the initial evaluations and developed the process described in the subject document, GE derives an important competitive advantage in selling and performing these services. However, the mere knowledge of the criteria provides the essential information to the deletion process.

- (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 technology

base, and its commercial value extends beyond the original development cost. The value goes beyond the extensive development, and extends to the application of the appropriate evaluation process..

GE's competitive advantage will be lost if its competitors are able to use the results of the GE experience to avoid fruitless avenues, or to normalize or verify their own process, or to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions. In particular, the specific areas addressed by any document to support a change in the licensing bases of the plant will clearly reveal those areas where detailed evaluations can be performed, and also, by omission, reveal those areas not so affected.

This compiled continues to have great competitive value to GE. The value would be lost if the information as a whole, in the context and level of detail provided in the subject GE document, were to be disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources, including that required to determine the areas that will not be affected by the change/deletion process and are therefore blind alleys, would unfairly provide competitors with a windfall. This would deprive GE of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing its evaluation process.



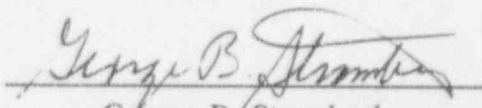
STATE OF CALIFORNIA       )  
  )  
COUNTY OF SANTA CLARA   )

SS:

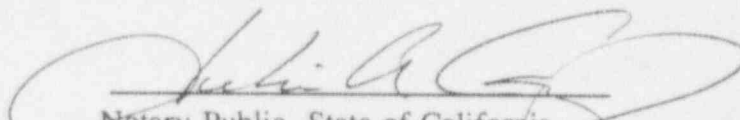
George B. Stramback, being duly sworn, deposes and says:

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 14th day of July 1994.

  
George B. Stramback  
General Electric Company

Subscribed and sworn before me this 14th day of July 1994.

  
Notary Public, State of California

