



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

February 10, 1992

DocNet No. 50-354

Mr. Steven E. Miltenberger
Vice President and Chief Nuclear
Officer
Public Service Electric and Gas
Company
Post Office Box 236
Hancocks Bridge, New Jersey 08038

Dear Mr. Miltenberger:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE, HOPE
CREEK GENERATING STATION (TAC NO. M80098)

By Public Service Electric and Gas Company's application dated January 7, 1992, and affidavit of Mr. David J. Robare, of General Electric Company, dated December 12, 1991, you submitted "BWROG Report for Increasing MSIV Leakage Rate Limits and Elimination of Leakage Control Systems," NEDC-31858P, Rev. 1, October 1991, and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790.

General Electric stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

1. 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 [sic] by him developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others."

2. Some examples of categories of information which fit into the definition of Proprietary Information are:

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- 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 expenditures 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.
3. Initial approval of proprietary treatment of a document is typically made by the Subsection Manager of the originating component, the person who is 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 are clearly identified as proprietary.
4. The procedure for approval of external release of such a document typically requires review by the Subsection Manager, Project Manager, Principal Scientist or other equivalent authority, by the Subsection Manager of the cognizant Marketing function (or 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 then only with appropriate protection by applicable regulatory provisions or proprietary agreements.

5. The document mentioned [...] 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.
6. The information to the best of [Mr. David J. Robare's] knowledge and belief has consistently been held in confidence by the General Electric Company, no public disclosure has been made, and is not available in public sources.

All disclosures to third parties have been made pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence.

7. Public disclosure of the information sought to be withheld is likely to cause substantial harm to the competitive position of the General Electric Company and deprive or reduce the availability of profit making opportunities because it would provide other parties including competitors, with valuable information.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of General Electric's statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request

Mr. Steven E. Miltenberger

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includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

/s/

Stephen Dembek, Project Manager
Project Directorate I-2
Division of Reactor Projects - 1/11
Office of Nuclear Reactor Regulation

cc: See next page

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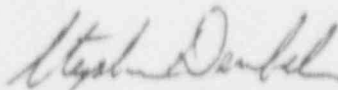
Mr. Steven E. Miltenberger

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Sincerely,



Stephen Dembek, Project Manager
Project Directorate I-2
Division of Reactor Projects - I/II
Office of Nuclear Reactor Regulation

cc: See next page

Mr. Steven E. Miltenberger
Public Service Electric & Gas
Company

Hope Creek Generating Station

cc:

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