



# THE CLEVELAND ELECTRIC ILLUMINATING COMPANY

P.O. BOX 97 ■ PERRY, OHIO 44081 ■ TELEPHONE (216) 259-3737 ■ ADDRESS-10 CENTER ROAD

*Serving The Best Location in the Nation*  
PERRY NUCLEAR POWER PLANT

Al Kaplan

VICE PRESIDENT  
NUCLEAR GROUP

May 11, 1988  
PY-CEI/NRR-0842 L

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

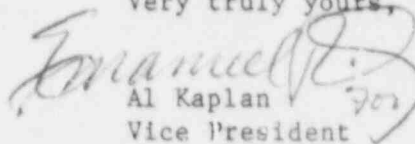
Perry Nuclear Power Plant  
Docket No. 50-440  
Proprietary Information -  
General Electric Report NEDE-31567-P,  
"Perry 1 Reactor Internals  
Vibration Measurements"

Dear Sir:

Attached is a copy of NEDE-31567-P, "Final Vibration Analysis Report for Perry Unit 1." This report is being submitted in accordance with the Updated Final Safety Analysis Report (USAR) Appendix 1B Item 13, and Regulatory Guide 1.20. This report is being submitted along with an affidavit prepared by an official of the General Electric Company describing why this information should be withheld from public disclosure in accordance with 10 CFR 2.790.

If you have any questions, please feel free to call.

Very truly yours,

  
Al Kaplan  
Vice President  
Nuclear Group

AK:njc

Attachments: NEDE-31567-P and Affidavit

cc: T. Colburn, w/o attachments  
K. Connaughton, w/o attachments  
USNRC Region III, w/o attachments

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GENERAL ELECTRIC COMPANY

AFFIDAVIT

I, Ricardo Artigas, being duly sworn, depose and state as follows:

1. I am Manager of Licensing and Consulting Services, 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 contained in the document NEDE-31567-P, "Perry 1 Reactor Internals Vibration Measurements," and is marked to designate it as proprietary.
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

Operator 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. The document NEDE-31567-P is considered proprietary since it contains information which reflects specific test data to be used in General Electric's product design improvement, and which was obtained and generated at considerable expense to General Electric. Fuel induced behavior which is considered a proprietary feature is all revealed. The analysis of the test data and the use of the analyses in mathematical models is also considered proprietary.
10. The information, to the best of my knowledge and belief, has consistently been held in confidence by the General Electric Company, no public disclosure has been made, and it 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.
11. 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:
  - a. The estimated cost of obtaining the test data and generating the report is over \$1,960,000 as indicated in Table 1.
  - b. The design information and product behavior features are a part of the General Electric Technological base which is sold in the form of licensee agreements. The precise value of this information is difficult to assess, but it clearly can be substantial. The value to GE would be lost if the information were disclosed to the public.
  - c. Research, development, engineering, and analytical costs and expenses must be reflected in the price of General Electric's products, and making such information available to competitors without similar expenditure of resources provides competitors with an advantage.

Ricardo Artigas, 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 6<sup>th</sup> day of May, 1988.

*Ricardo Artigas*

Ricardo Artigas  
General Electric Company

STATE OF CALIFORNIA )  
COUNTY OF SANTA CLARA ) ss:

Subscribed and sworn before me this 6<sup>th</sup> day of May, 1988.



*Paula F. Hussey*  
NOTARY PUBLIC IN AND FOR SAID  
COUNTY AND STATE

TABLE 1

Estimated Costs of Perry 1 Vibration Tests

	Dollars (thousands)
Engineering	
Sensors	\$320
Test Analysis	\$280
Removal Tooling Design	\$ 80
Drafting	\$320
Site labor, installation and removal	\$180
Travel and Living	\$ 80
Sensors and hardware	\$600
Waste packaging and storage	\$100
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Total Perry 1	\$1,960