



Carolina Power & Light Company
P.O. Box 10429
Southport, NC 28461-0429

JUL 19 1999

SERIAL: BSEP 99-0111

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

BRUNSWICK STEAM ELECTRIC PLANT, UNIT NO. 1
DOCKET NO. 50-325/LICENSE NO. DPR-71
REQUEST FOR NEW AFFIDAVIT SUPPORTING WITHHOLDING OF PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Gentlemen:

By letter dated February 23, 1998 (Serial No. BSEP 98-0034), Carolina Power & Light (CP&L) Company submitted a license amendment request for the Brunswick Steam Electric Plant, Unit No. 1. Enclosure 2 of the letter included proprietary information provided by General Electric Nuclear Energy (GE) entitled "Additional Information Regarding the 1.09 Cycle Specific SLMCPR for Brunswick Unit 1 Cycle 12," which supported this license amendment request.

On July 1, 1999, through the NRC licensing project manager, CP&L was requested to confirm that the subject document is still considered by GE to be proprietary information which should be withheld from public disclosure in accordance with 10 CFR 9.17(a)(4) and 10 CFR 2.790(a)(4). If the information is still considered by GE to be proprietary, CP&L was requested to submit a new affidavit attesting to GE's claim.

The subject information continues to be considered proprietary information by GE. A new affidavit from GE attesting to this fact is enclosed. A non-proprietary version of the GE document was previously included as Enclosure 4 of CP&L's February 23, 1998, letter.

Please refer any questions regarding this submittal to Mr. Warren J. Dorman, Supervisor - Licensing, at (910) 457-2068.

Sincerely,

Keith R. Jury
Manager - Regulatory Affairs
Brunswick Steam Electric Plant

220017

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WRM/wrm

Enclosure: General Electric Nuclear Energy Affidavit Regarding Withholding from Public Disclosure

cc (with enclosure):

U. S. Nuclear Regulatory Commission, Region II
ATTN: Mr. Luis A. Reyes, Regional Administrator
Atlanta Federal Center
61 Forsyth Street, SW, Suite 23T85
Atlanta, GA 30303-3415

U. S. Nuclear Regulatory Commission
ATTN: Mr. Theodore A. Easlick, NRC Senior Resident Inspector
8470 River Road
Southport, NC 28461-8869

U. S. Nuclear Regulatory Commission
ATTN: Mr. Allen G. Hansen (Mail Stop OWFN 8G9)
11555 Rockville Pike
Rockville, MD 20852-2738

Ms. Jo A. Sanford
Chair - North Carolina Utilities Commission
P.O. Box 29510
Raleigh, NC 27626-0510

ENCLOSURE

BRUNSWICK STEAM ELECTRIC PLANT, UNIT NO. 1
DOCKET NO. 50-325/LICENSE NO. DPR-71
REQUEST FOR NEW AFFIDAVIT SUPPORTING WITHHOLDING OF PROPRIETARY
INFORMARTION FROM PUBLIC DISCLOSURE

General Electric Nuclear Energy Affidavit
Regarding Withholding from Public Disclosure



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General Electric Company
P.O. Box 780, Wilmington, NC 28402
910 675-5000

GENERAL ELECTRIC COMPANY
(GE)

AFFIDAVIT

I, Ralph J. Reda, being duly sworn, depose and state as follows:

- (1) I am the Product Line Manager, Nuclear Fuel Fabrication at the GE Nuclear Energy Production facility in Wilmington, N.C., 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 attachment to the letter, *W. H. Hetzel (GE) to A. T. Kremer (CP&L), Brunswick 1 Cycle 12 Safety Limit MCPR, Letter no. WHH-98-009, January 27, 1998.*
- (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) and 2.790(a)(4) 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;

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- 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 paragraph (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. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in (6) and (7) following. 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.
- (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 in paragraph (2) is classified as proprietary because it contains details of GE's Safety Limit methodology and the corresponding results which GE has applied to actual core designs with GE's fuel.

The development of the methods used in these analyses, along with the testing, development and approval of the supporting methodology was achieved at a significant cost, on the order of several million dollars, to GE.

- (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 the 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 development these very valuable analytical tools.

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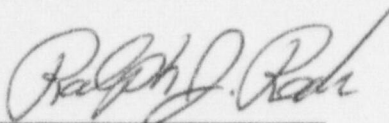
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STATE OF NORTH CAROLINA)
) SS:
COUNTY OF NEW HANOVER)

Ralph J. Reda, 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.

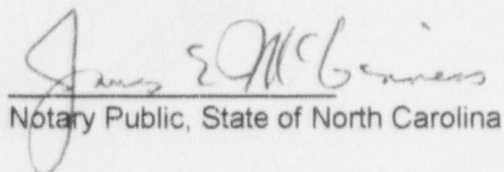
Executed at Wilmington, North Carolina, this 14th day of July, 1999



Ralph J. Reda
General Electric Company

Subscribed and sworn before this 14th day of July, 1999

JAMES E. MCGINNESS
Notary Public, State of North Carolina
New Hanover County
My Commission Expires 1/23/2001



Notary Public, State of North Carolina

My commission expires:

1/23/2001