ENCLOSURE 3

M230045

The PRIME Model for Analysis of Fuel Rod Thermal-Mechanical Performance 2022 7-Year Update,– GNF-A Proprietary Information, NEDC-33257P, Supplement 2, Revision 1, April 2023

Affidavit
Global Nuclear Fuel–Americas, LLC

Affidavit

I, Brian R. Moore, state as follows:

(1) I am General Manager, Core & Fuel Engineering, Global Nuclear Fuel – Americas, LLC (“GNF-A”), 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 GNF-A proprietary report, The PRIME Model for Analysis of Fuel Rod Thermal-Mechanical Performance 2022 7-Year Update,— GNF-A Proprietary Information, NEDC-33257P, Supplement 2, Revision 1, April 2023.  GNF-A text proprietary information is identified by a dark red dotted underline inside double square brackets [[This sentence is an example.\(^3\)]].  Figures and other large objects are identified with double square brackets before and after the object.  In each case, the superscript notation \(^3\) refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.

(3) In making this application for withholding of proprietary information of which it is the owner, GNF-A 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 2.390(a)(4) for “trade secrets” (Exemption 4).  The material for which exemption from disclosure is here sought 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 GNF-A’s competitors without license from GNF-A 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 GNF-A, its customers, or its suppliers.

d. Information which reveals aspects of past, present, or future GNF-A customer–funded development plans and programs, of potential commercial value to GNF-A.
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 paragraphs (4)a. and (4)b., above.

(5) To address the 10 CFR 2.390 (b) (4), the information sought to be withheld is being
submitted to NRC in confidence. The information is of a sort customarily held in
confidence by GNF-A 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 GNF-A, 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, or subject to the terms
under which it was licensed to GNF-A. Access to such documents within GNF-A 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 GNF-A 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 GNF-A’s fuel design and licensing methodology. The development of this
methodology, along with the testing, development and approval was achieved at a
significant cost to GNF-A or its licensor.

The development of the fuel design and licensing methodology along with the interpretation
and application of the analytical results is derived from an extensive experience database
that constitutes a major GNF-A asset.

(9) Public disclosure of the information sought to be withheld is likely to cause substantial
harm to GNF-A’s competitive position and foreclose or reduce the availability of profit–
making opportunities. The fuel design and licensing methodology is part of GNF-A’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 GNF-A or its licensor.

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.

GNF-A’s competitive advantage will be lost if its competitors are able to use the results of the GNF-A 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 GNF-A 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 GNF-A of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of April 2023.

[Signature]

Brian R. Moore  
General Manager, Core & Fuel Engineering  
Global Nuclear Fuel – Americas, LLC  
3901 Castle Hayne Road  
Wilmington, NC 28401  
Brian.Moore@ge.com