



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 31, 2024

Mr. George Wadkins
Chief Consulting Engineer
GE-Hitachi Nuclear Energy
Americas, LLC
3901 Castle Hayne Rd
Wilmington, NC 28402

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR GE-HITACHI NUCLEAR ENERGY AMERICAS, LLC

Dear Mr. Wadkins:

By letter dated July 31, 2023, you submitted an affidavit dated July 28, 2023, requesting that the information contained in the following documents be withheld from public disclosure pursuant to Section 2.390 of Title 10 of the *Code of Federal Regulations* (10 CFR):

Enclosure 1: "NEDC-33926P/NEDO-33926, Revision 0, Additional Information to Support NRC Acceptance Review" (Proprietary)¹

Enclosure 2: NEDC-33926P/NEDO-33926, Revision 0, Additional Information to Support NRC Acceptance Review" (Proprietary)

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure as set forth in affidavit paragraphs (2), (3), (4), (8) and (9) shown below:

- (2) The information sought to be withheld is contained in Enclosures 1 and 2 of GEH Letter M230098, "NEDC-33926P/NEDO-33926, Revision 0, BWRX-300 Steel-Plate Composite Containment Vessel (SCCV) and Reactor Building (RB) Structural Design Additional Information to Support USNRC Acceptance Review," dated July 28, 2023. GEH proprietary text is identified by dotted underline within double square brackets. [[This sentence is an example.{3}]] Figures and large objects containing GEH proprietary information are identified with double square brackets before and after the object. In all cases, the superscript notation {3} refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.

¹ Letter from G. Wadkins to NRC, GE-Hitachi Nuclear Energy Submittal of Entitled "NEDC-33926P/NEDO-33926, Revision 0, BWRX-300 Steel-Plate Composite Containment Vessel (SCCV) and Reactor Building (RB) Structural Design Additional Information to Support USNRC Acceptance Review," Enclosure 1: "NEDC-33926P/NEDO-33926, Revision 0, Additional Information to Support NRC Acceptance Review," and Enclosure 2: "NEDC-33926P/NEDO-33926, Revision 0, Additional Information to Support NRC Acceptance Review," dated July 31, 2023, Agencywide Document Access and Management System Accession No. ML23212B126.

- (3) In making this application for withholding of proprietary information of which it is the owner or licensee:
- (a) In the United States, GEH 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 Nuclear Regulatory Commission (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*, 975 F.2d 871 (DC Cir. 1992), and *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280 (DC Cir. 1983).
- (4) In the United States, some examples of categories of information which fit into the definition of proprietary information in (3)(a) above are:
- (a) Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GEH's competitors without license from GEH 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 aspects of past, present, or future GEH customer-funded development plans and programs, resulting in potential products to GEH;
 - (d) In the U.S., 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) through (4)(d) above.

- (8) The information identified in paragraph (2) is classified as proprietary because it contains preliminary proprietary design information for BWRX-300 systems and components, and regulatory acceptance criteria intended to be used for the safety analysis of the BWRX-300. The development of the preliminary proprietary design information for systems and components and proposed regulatory acceptance criteria for this new reactor technology was achieved at a significant cost to GEH.

The development of the evaluation process for this new reactor technology design, along with the interpretation and application of the regulatory acceptance criteria, is derived from the extensive experience database that constitutes a major GEH asset.

- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GEH's competitive position and foreclose or reduce the availability of profit-making opportunities. The development of this new reactor technology is part of GEH'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 for this reactor technology comprise a substantial investment of time and money by GEH.

The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology to a new reactor technology is difficult to quantify, but it clearly is substantial.

GEH's competitive advantage will be lost if its competitors are able to use the results of the GEH 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 GEH would be lost if the information were disclosed to the public. Making such information available to competitors without these competitors having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall and deprive GEH of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing this very valuable reactor technology.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(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 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.

If you have any questions regarding this matter, I may be reached via email at Jordan.Glisan@nrc.gov.

Sincerely,

/RA/

Jordan Glisan, Project Manager
Licensing and Regulatory Infrastructure Branch
Division of New and Renewed Licenses
Office of Nuclear Reactor Regulation

Docket No: 99900003

cc: GovDelivery listserv

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR GE-HITACHI NUCLEAR ENERGY AMERICAS, LLC
DATED: JULY 31, 2024

DISTRIBUTION:

Public
MHayes, NRR
JShea, NRR
JGlisan, NRR
SGreen, NRR
RidsNrrDnrl
RidsNrrDnrlNlib

ADAMS Accession No.: ML23235A005***via email****NRR-106**

OFFICE	NRR/DNRL/NLIB:PM	NRR/DNRL/NLIB:LA
NAME	JGlisan	SGreen
DATE	05/17/2024	05/20/2024
OFFICE	NRR/DNRL/NLIB:BC	NRR/DNRL/NLIB:PM
NAME	MHayes	JGlisan
DATE	07/31/2024	07/31/2024

OFFICIAL RECORD COPY