ENCLOSURE 3

M250130

Affidavit

GEH Non-Proprietary Information

GE-Hitachi Nuclear Energy Americas LLC

AFFIDAVIT

I, **Suzanne Karkour,** state as follows:

(1) I am Vice President, New Power Plant and Product Licensing, GE-Hitachi Nuclear Energy Americas, LLC (GEH), 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 NEDC-34270P, Revision 0, "BWRX-300 Stability Analysis." GEH proprietary information within text and tables is identified by a dotted underline within double square brackets. [[This sentence is an example. {3}]] GEH proprietary information on figures and in equations is 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.

(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 qualifies 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 F2.d 871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704 F2.d 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.

(5) To address the U.S. requirements in 10 CFR 2.390(b)(4) requirements, the information sought to be withheld is being submitted to the NRC in confidence. The information is of a sort customarily held in confidence by GEH and is in fact so held. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GEH, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties including any required transmittals to the NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in paragraphs (6) and (7) following.

(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 GEH.

(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 GEH 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 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.

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

Executed on this 31st day of March 2025.

Suzanne Karkour

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