

May 1, 2003

Mr. George B. Stramback
Regulatory Services Project Manager
GE Nuclear Energy
175 Curtner Avenue
San Jose, CA 95125

SUBJECT: GE NUCLEAR ENERGY REQUEST FOR WITHHOLDING INFORMATION
FROM PUBLIC DISCLOSURE

Dear Mr. Stramback:

By letter dated September 26, 2001, the NRC provided a 10 CFR 2.790 response letter determining that the GE Nuclear Energy (GENE) Licensing Topical Report (LTR) NEDC-33004P, "Constant Pressure Power Uprate, Revision 0," was considered proprietary. However, by letter dated November 15, 2002, GENE submitted an affidavit dated November 14, 2002, executed by you, requesting that the following revised LTR be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790:

NEDC-33004P, Revision 2, "Constant Pressure Power Uprate"

In addition, this letter requested that all earlier versions of the above LTR, including the Errata and Addenda (E&A), be withdrawn. Pursuant to your request, the NRC has properly disposed of all NRC internal working copies of the subject material and removed the subject documents from the Agencywide Documents Access and Management System, as well as all NRC internal access. By letter and affidavit dated February 6, 2003, GENE submitted Revision 3 requesting that the revised LTR be withheld from public disclosure.

A nonproprietary copy of Revision 3 to the LTR has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- 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;

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have determined that the submitted information, Revision 3, sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, LTR NEDC-33004P, Revision 3, "Constant Pressure Power Uprate," marked as proprietary, will be withheld from public disclosure pursuant to 10 CFR 2.790(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 at (301) 415-1445.

Sincerely,

/RA/

Alan Wang, Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Project No. 710

cc: See next page

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GE Nuclear Energy

Project No. 710

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