

August 11, 2003

Mr. Atambir S. Rao, ESBWR Project Manager  
Nuclear Plant Projects  
General Electric Company (GE)  
175 Curtner Avenue, M/C 365  
San Jose, CA 95125-1014

Dear Mr. Rao:

The purpose of this letter is to engage you in a process by which the Nuclear Regulatory Commission (NRC) can provide GE with additional information that you may find helpful in developing any application you might submit for certification of a reactor design. This letter also describes the NRC's requirements governing how you will handle this information should you decide to receive it. The Commission, in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 73.21(c)(1) has authorized the staff to offer GE, as a prospective applicant for a design certification, access to certain safeguards information (SGI). In particular, the Commission has authorized the release of the February 25, 2002, interim compensatory measures (ICMs) for power reactors and relevant portions of the April 29, 2003, revision of the design basis threat (DBT) issued by orders to licensees of all operating reactors<sup>1</sup> to GE.

The subject information has been determined to be sensitive-unclassified information of a type specified as SGI in §73.21. As such, this information is subject to specific handling and protection requirements and no person may have access to it unless that person has established a "need to know" the information. Please note that disclosure of this information to unauthorized persons is subject to civil and criminal penalties. The NRC will make the applicable SGI available to GE only if GE, provides assurance that it will protect the information in accordance with the requirements of 10 CFR 73.21. The staff notes that such assurance can be achieved through a contractual agreement with an existing nuclear power plant licensee (sponsoring organization) that currently implements those requirements.

If GE chooses to use a sponsoring organization, then the NRC requests the name, organization, and address of the sponsoring organization and certification from that organization that it will control the information to be provided to GE in accordance with the requirements of 10 CFR 73.21.

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<sup>1</sup>The Commission also issued orders to power reactors on January 7, 2003, imposing compensatory measures (CMs) related to Access Authorization Orders. On April 29, 2003, orders were issued to power reactors imposing guard force training and worker fatigue CMs. While these orders are not relevant to the discussion of design criteria, they would need to be addressed by future licensees.

A. S. Rao

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Please send the needed information to the Document Control Desk and copy to:

Amy Cubbage, NRR  
U.S. Nuclear Regulatory Commission  
M/S O4-D9A  
Washington, D.C. 20555

When the requested information is received, the NRC will send the specified SGI to the contact indicated at the sponsoring organization. If GE does not pursue a contractual relationship with a sponsoring utility, then you will need to demonstrate appropriate controls are in place for properly handling such information.

If further assistance is necessary, please contact any of the people listed below.

Sincerely,

*/RA/*

James E. Lyons, Program Director  
New, Research and Test Reactors Program  
Division of Regulatory Improvement Programs  
Office of Nuclear Reactor Regulation

Contacts: Amy Cubbage, NRR  
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Distribution for Letter to A. S. Rao dated August 11, 2003

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