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 AUTH. NAME: SORENSEN, G.C. AUTHOR AFFILIATION: Washington Public Power Supply System  
 RECIP. NAME: RECIPIENT AFFILIATION: Document Control Branch (Document Control Desk)

SUBJECT: Forwards affidavit from GE declaring 870420 ltr from GE to BWR Owners group re plant specific TS improvement for ECCS as proprietary, per application for amend to License NPF-21, changing TS 3/4.3.3 & associated TS tables.

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### NOTES:

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WASHINGTON PUBLIC POWER SUPPLY SYSTEM

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November 14, 1991

G02-91-208

Docket No. 50-397

U.S. Nuclear Regulatory Commission  
Attn: Document Control Desk  
Washington, D.C. 20555


Gentlemen:

Subject: NUCLEAR PLANT NO. 2, OPERATING LICENSE NPF-21,  
REQUEST FOR AMEND. TO TS 3/4.3.3 AND TABLES 3.3.3-1,  
4.3.3.1-1, 3.3.5-1 & 4.3.5.1-1 ECCS & RCIC ACTUATION  
INSTRUMENTATION AND SURVEILLANCE REQUIREMENTS

Reference: 1) Letter, G02-91-035, G. C. Sorensen (SS) to NRC, same subject,  
dated February 21, 1991  
2) Letter, L. Rash (GE) to BWR Owners Group Technical Specifi-  
cation Improvement Committee Members for Cleveland Electric  
Illuminating Company and Washington Public Power Supply  
System, "Plant Specific Technical Specification Improvement  
(TSI) Analysis for the Emergency Core Cooling System (ECCS)",  
dated 4/20/87 (attachment 2, proprietary)

Reference 1) requested technical specification changes to ECCS and RCIC instru-  
mentation surveillance intervals and allowed outage times. Reference 2) provided  
plant specific justification for the requested changes and was attached to  
Reference 1). Reference 2) is proprietary and was declared as such by the Supply  
System, however a similar declaration was not provided by General Electric at  
that time. The Supply System has been informed that an affidavit from GE is  
necessary to proceed with this change. Accordingly, attached is an affidavit  
from GE affirming Reference 2) as proprietary.

Very truly yours,

  
G. C. Sorensen, Manager  
Regulatory Programs

PLP/bk  
Attachments

cc: RG Waldo - EFSEC  
JB Martin - NRC RV  
NS Reynolds - Winston & Strawn  
PL Eng - NRC

DL Williams - BPA/399  
NRC Site Inspector - 901A

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GENERAL ELECTRIC COMPANY

AFFIDAVIT

I, David J. Robare, being duly sworn, depose and state as follows:

1. I am Manager, Plant Licensing Services, General Electric Company, 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 the report entitled "Technical Specification Improvement Analysis for the Emergency Core Cooling System Actuation Instrumentation for Washington Public Power Supply System Nuclear Project No. 2," RE-024, March 1987.
3. In designating material as proprietary, General Electric utilizes the definition of proprietary information and trade secrets set forth in the American Law Institute's Restatement of Torts, Section 757. This definition provides:

"A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.... A substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring information.... Some factors to be considered in determining whether given information is one's trade secret are: (1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others."

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 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 consisting of supporting data and analyses, including test data, relative to a process, method or apparatus, the application of which provide a competitive economic advantage, e.g., by optimization or improved marketability;



- c. 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;
  - d. Information which reveals cost or price information, production capacities, budget levels or commercial strategies of General Electric, its customers or suppliers;
  - e. Information which reveals aspects of past, present or future General Electric customer-funded development plans and programs of potential commercial value to General Electric;
  - f. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection;
  - g. Information which General Electric must treat as proprietary according to agreements with other parties.
5. Initial approval of proprietary treatment of a document is typically made by the Subsection manager of the originating component, who is most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge. Access to such documents within the Company is limited on a "need to know" basis and such documents are clearly identified as proprietary.
6. The procedure for approval of external release of such a document typically requires review by the Subsection Manager, Project Manager, Principal Scientist or other equivalent authority, by the Subsection Manager of the cognizant Marketing function (or delegate) and by the Legal Operation for technical content, competitive effect and determination of the accuracy of the proprietary designation in accordance with the standards enumerated above. Disclosures outside General Electric are generally limited to regulatory bodies, customers and potential customers and their agents, suppliers and licensees then only with appropriate protection by applicable regulatory provisions or proprietary agreements.
7. The document mentioned in paragraph 2 above has been evaluated in accordance with the above criteria and procedures and has been found to contain information which is proprietary and which is customarily held in confidence by General Electric.
8. The information to the best of my knowledge and belief has consistently been held in confidence by the General Electric Company, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties have been made pursuant to regulatory provisions of proprietary agreements which provide for maintenance of the information in confidence.



9. Public disclosure of the information sought to be withheld is likely to cause substantial harm to the competitive position of the General Electric Company and deprive or reduce the availability of profit making opportunities because it would provide other parties, including competitors, with valuable information regarding the application of reliability based methodology to BWR instrumentation. A substantial effort has been expended by General Electric to development this information in support of the BWR Owners' Group Technical Specification Improvement Program.

STATE OF CALIFORNIA                    )  
COUNTY OF SANTA CLARA            ) ss:

David J. Robare, being duly sworn, deposes and says:

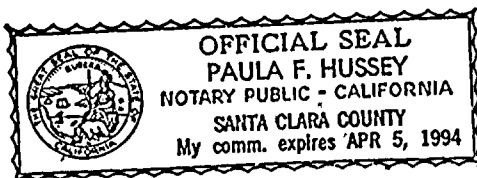
That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge, information, and belief.

Executed at San Jose, California, this 25<sup>TH</sup> day of OCTOBER, 1991.

David J. Robare

David J. Robare  
General Electric Company

Subscribed and sworn before me this 25<sup>th</sup> day of October 1991.



Paula F. Hussey  
NOTARY PUBLIC, STATE OF CALIFORNIA





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