

Proprietary Notice

Enclosure 1 of this letter contains proprietary information. Upon the removal of Enclosure 1, the balance of the letter may be considered non-proprietary.



Global Nuclear Fuel

Global Nuclear Fuel – Americas, LLC

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Wilmington, NC 28401

Kimberly O'Connor

GNF Customer Project Manager

KGO-ENO-LD1-18-108

August 13, 2018

Mr. Don Lomax
Entergy Operations, Inc.
1340 Echelon Parkway
Jackson, MS 39213

cc: Brian Holman
Frank Philpott
Kristin Bennett
Chris Kmiec

Subject: GNF Pre-Submittal Meeting Presentation on River Bend Station Spent Fuel Pool Criticality Analysis of Boraflex Storage Racks with NETCO-SNAP-IN® Rack Inserts

- Reference:
1. Entergy Nuclear Operations, Inc. Fixed Services Agreement No. 10134078 for the Supply of Fuel and Fuel Related Work to RBS with Global Nuclear Fuel, as amended ("Fuel Contract").
 2. Entergy Nuclear Operations, Inc. Contract Order 10495761.

Dear Mr. Lomax,

This letter transmits the Global Nuclear Fuel – Americas, LLC (GNF-A) presentation on the River Bend Station spent fuel pool criticality analysis of Boraflex storage racks with NETCO-SNAP-IN® rack inserts to be presented during the August 23, 2018 pre-submittal meeting with NRC staff.

Please note that Enclosure 1 contains information which is considered proprietary by GNF-A and should be protected in accordance with the provisions for such information pursuant to the Entergy/General Electric Company proprietary agreement. In support of Entergy's use of the enclosed information with the NRC, the affidavit contained in Enclosure 2 identifies that the information contained in Enclosure 1 has been handled and classified as proprietary to GNF-A. GNF-A hereby requests that Entergy request that the NRC withhold the information contained in Enclosure 1 from public disclosure in accordance with the provisions of 10 CFR 2.390 and 9.17. GNF-A requests that any transmittal of this proprietary information to the NRC be accompanied by the enclosed affidavit and proprietary notice. In order to maintain the applicability of the affidavit and to meet the requirements of 10 CFR 2.390, the transmittal to the NRC should:

- 1) Faithfully reproduce the proprietary information,
- 2) Preserve the proprietary annotations, and
- 3) Include the words similar to "GNF Proprietary Information" at the top of first page and each page containing the proprietary information.

Enclosure 1 contains detailed design information which is deemed proprietary in its entirety. Thus, a non-proprietary version of this enclosure has not been provided in accordance with NRC Information Notice 2009-07, Requirements for Submittals, (2), which states: "In instances in which a non-proprietary

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version would be of no value to the public because of the extent of the proprietary information, the agency does not expect a nonproprietary version to be submitted."

Based on past discussions with the NRC, GNF-A has been encouraged to request its customers to provide a paragraph similar to the following paragraph in the customer letters transmitting proprietary information to the NRC in order to clearly indicate the proprietary nature of the information and to document the source of the proprietary information as indicated in the GNF-A affidavit.

"The enclosed documents contain proprietary information as defined by 10 CFR 2.390. GNF-A, as the owner of the proprietary information, has executed the enclosed affidavit, which identifies that the enclosed proprietary information has been handled and classified as proprietary, is customarily held in confidence, and has been withheld from public disclosure. The proprietary information was provided to Entergy in a GNF-A transmittal that is referenced by the affidavit. The proprietary information has been faithfully reproduced in the enclosed such that the affidavit remains applicable. GNF-A hereby requests that the enclosed proprietary information be withheld from public disclosure in accordance with the provisions of 10 CFR 2.390 and 9.17. Information that is not considered proprietary is provided in a separate enclosure."

Please contact me if you have any questions.

Sincerely,



Kimberly O'Connor
GNF-A Customer Project Manager

Enclosures:

1. River Bend Station Spent Fuel Pool Criticality Analysis of Boraflex Storage Racks with NETCO-SNAP-IN® Rack Inserts, GNF-A Proprietary Information - Class II (Internal)
2. GNF-A Affidavit for Enclosure 1

004N9640 R0

ENCLOSURE 2

KGO-ENO-LD1-18-108

Affidavit for Enclosure 1

Global Nuclear Fuel – Americas

AFFIDAVIT

I, **Lisa K. Schichlein**, state as follows:

- (1) I am a Senior Project Manager, NPP/Services Licensing, Regulatory Affairs, Global Nuclear Fuel - Americas, LLC (“GNF-A”), 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 Enclosure 1 of GNF letter KGO-ENO-LD1-18-108, Kimberly O’Connor (GNF) to Don Lomax (Entergy), entitled “GNF Pre-Submittal Meeting Presentation on River Bend Station Spent Fuel Pool Criticality Analysis of Boraflex Storage Racks with NETCO-SNAP-IN[®] Rack Inserts,” dated August 13, 2018. The content of Enclosure 1, which is entitled “River Bend Station Spent Fuel Pool Criticality Analysis of Boraflex Storage Racks with NETCO-SNAP-IN[®] Rack Inserts”, is proprietary in its entirety. The header of each page in this enclosure carries the notation “GNF Proprietary Information – Class II (Internal)^{3}.” 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, GNF-A 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 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, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
- (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, including supporting data and analyses, where prevention of its use by GNF-A's competitors without license from GNF-A 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 GNF-A customer-funded development plans and programs, resulting in potential products to GNF-A;
- d. 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. and (4)b. above.

- (5) To address 10 CFR 2.390 (b) (4), the information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GNF-A, 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 GNF-A, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties including any required transmittals to 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 GNF-A.
- (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 GNF-A 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), above, is classified as proprietary because it contains details of GNF-A's criticality analysis methodology. The development of this methodology, along with the testing, development and approval was achieved at a significant cost to GNF-A or its licensor.

The development of the criticality analysis methodology along with the interpretation and application of the analytical results is derived from the extensive experience database that constitutes a major GNF-A asset.

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

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

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

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

Executed on this 13th day of August 2018.



Lisa K. Schichlein
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Regulatory Affairs
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