



GE Nuclear Energy

J. E. Quinn, Projects Manager
LMR and SBWR Programs

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April 25, 1995

MFN 063-95
Docket STN 52-004

Document Control Desk
U. S. Nuclear Regulatory Commission
Washington DC 20555

Attention: Richard W. Borchardt,
Director Standardization Project Directorate

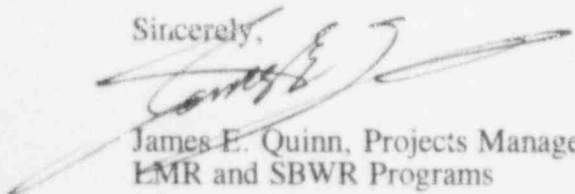
Subject: **PANTHERS-PCC Apparent Test Results**

Reference: 1) MFN 057-95, from J. E. Quinn (GE) to Richard W. Borchardt (NRC),
THERMAL-HYDRAULIC DATA REPORT OF PANTHERS-PCC TESTS,
April 14, 1995.

Enclosed are the Apparent Test Results (ATR) Reports for the PANTHERS-PCC tests. The ATR Reports document the preliminary results of all the matrix tests. Each of these reports was prepared soon after its test. The purpose of these reports was to confirm that a test was valid and that the test objectives were met. While they have been reviewed and approved, the data from these reports should not be used for detailed study of the tests. Since the conclusion of the testing last year, a recalibration of the key instruments has caused some small changes to the results of some tests. Verified results are presented in the *THERMAL-HYDRAULIC DATA REPORT ON PANTHERS-PCC TESTS* (SIET Document No. 00393-RP-95), which was sent to the NRC in MFN 057-95 (Reference 1).

Please note that these reports contain information of the type which the General Electric Company (GE) and its associates maintain in confidence and withhold from public disclosure. They have been handled and classified as proprietary to GE and its associates as indicated in the attached affidavit. We hereby request that this information be withheld from public disclosure in accordance with the provisions of 10CFR2.790.

Sincerely,


James E. Quinn, Projects Manager
LMR and SBWR Programs

Enclosure: *PANTHERS-PCC APPARENT TEST RESULTS*

cc: P. A. Boehnert (NRC/ACRS) [w/enclosure]
I. Catton (ACRS) [w/enclosure]
S. Q. Ninh (NRC) [w/enclosure]
J. H. Wilson (NRC) [w/enclosure]

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MFN 063-95

bcc: J. A. Beard [w/enclosure]
P. F. Billig
R. H. Buchholz
T. Cook (DoE) [w/ 2 copies of enclosure]
J. D. Duncan
R. T. Fernandez (EPRI) [w/enclosure]
J. R. Fitch
J. E. Leatherman
J. E. Quinn
T. R. McIntyre
F. A. Ross (DoE) [w/enclosure]
K. T. Schaefer
B. S. Shiralkar
R. Srinivasan (EPRI) [w/enclosure]
GE Master File M/C 747 [w/enclosure]
SBWR Project File [w/enclosure]

General Electric Company

AFFIDAVIT

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

(1) I am Project Manager, General Electric Company ("GE") 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 *PANTHERS-PCC Apparent Test Results (ATR)* report from the SBWR test program. The *ATR* report documents the preliminary results from the matrix of SBWR tests at the PANTHERS Test Facility.

(3) In making this application for withholding of proprietary information of which it is an owner, GE 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), 2.790(a)(4), and 2.790(d)(1) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information", and some portions 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, 704F2d11280 (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 General Electric's competitors without license from General Electric 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 cost or price information, production capacities, budget levels, or commercial strategies of General Electric, its customers, or its suppliers;

d. Information which reveals aspects of past, present, or future General Electric customer-funded development plans and programs, of potential commercial value to General Electric and its associates;

e. 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 both paragraphs (4)a, (4)b and (4)d, above.

(5) The information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GE and its associates, 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 GE, 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. Access to such documents within GE is limited on a "need to know" basis.

(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 GE 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 also proprietary because it contains results from the SBWR test program. This test program has been under development by GE and its associates for more than seven years at a total cost of ten of millions of dollars. This information is considered to be proprietary for the reasons set forth in paragraphs (4)a, (4)b and (4)d, above.

(9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GE's competitive position and foreclose or reduce the availability of profit-making opportunities. The information is part of GE's comprehensive BWR technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database.

The research, development, engineering, and NRC review costs comprise a substantial investment of time and money by GE and its associates.

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.

GE's competitive advantage will be lost if its competitors are able to use the test results of the GE and its associates 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 GE and its associates 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 GE of the opportunity to exercise its competitive advantage to seek an adequate return on the large investment in developing these very valuable analytical tools.

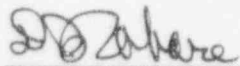
STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

)SS:
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D. J. Robare, being duly sworn, deposes and says:

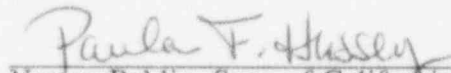
That he has read the foregoing affidavit and the matters stated therein are true and correct to the best of his knowledge,

Executed at San Jose, California, this 25th day of APRIL, 1995



D. J. Robare
General Electric Company

Subscribed and sworn before me this 25th day of April, 1995


Notary Public, State of California

