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DOCKET

Mr. John C. Hoyle, Secretary
Office of the Secretary
Nuclear Regulatory Commission
Washington, D.C. 20555

DOCKET NUMBER
PROPOSED RULE **PR 52**

(61FR18099)

Dear Mr. Hoyle:

Subject: *Design Certification Rule for the Advanced Boiling Water Reactor*
(ABWR); Docket No. 52-001.

On December 4, 1996, the Commission issued a Staff Requirements Memorandum (SRM) approving certification rules for the ABWR and System 80+. In so doing, the Commission resolved the remaining policy issues and directed the staff "as a matter of priority" to conform the final certification rules to the changes noted in the SRM and forward the rules to the Secretary for signature and publication in the Federal Register. General Electric (GE) is deeply appreciative of the Commission's constructive resolution of the policy issues and the emphasis it placed on priority completion of the rulemaking process.

GE is the applicant for design certification of the ABWR. Based upon discussions with Mr. Jerry N. Wilson of the NRC staff, we were informed that the staff will complete work on the design certification rule for the ABWR in approximately three or four months, that the rule will be provided to the Secretary for transmission to the Office of Federal Register (OFR), and that we will not be given an opportunity to see the rule before it is sent to the OFR unless the Secretary's Office so authorizes. The purpose of this letter is to request your authorization for GE to conduct a narrowly-focused review of the design certification rule for the ABWR before it is sent to the OFR and to urge that staff rule issuance activities be expedited to the maximum extent feasible. We believe that both requested actions can be mutually supportive in carrying out remaining NRC pre-issuance steps.

As you are aware, a supplemental proposed rule for design certification of the ABWR was issued for public comment in SECY-96-077. On July 23, 1996, GE submitted extensive comments on the design certification rule for the ABWR, and incorporated by reference the lengthy comments submitted by the Nuclear Energy Institute (NEI) on the same date. Based upon requests by NEI, the Commission established a Senior Review Group (SRG) to review these comments, and the SRG issued an extensive analysis of these comments on August 13, 1996 recommending a number of changes to the supplemental proposed rule contained in SECY-96-077. SRG recommendations on other issues raised in industry comments were contained in the memorandum to the Commission from the Executive Director for Operations dated October 21, 1996. In a SRM dated December 6, 1996, the

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Commission accepted most of the SRG's recommendations and identified other areas in which the supplemental proposed rule should be modified.

As a result of the Commission's SRM, all policy issues regarding the design certification rule for the ABWR have been resolved. However, in most cases, neither the SRG's August 13 and October 21, 1996 analyses nor the Commission's SRM identified specific language to implement these resolutions for the issues raised by NEI and GE. Because the implementing language is critical to the resolution of these issues, we request an opportunity to review the design certification rule for the ABWR before it is sent to the OFR. Our review would be narrowly limited - it would focus solely on ensuring that the language of the rule accurately and clearly conforms with the resolutions specified by the Commission; we are not requesting an opportunity to comment on the policy determinations that have been made by the Commission and we do not propose to raise new issues. Any such meeting for this purpose would, of course, be publicly noticed.

For the following reasons, we believe that it would be appropriate to allow GE to conduct such a narrowly-focused review:

- GE is the applicant for design certification of the ABWR. As the applicant, we have a unique interest in ensuring the accuracy and clarity of the design certification rule. In this regard, we note that the NRC in the past has given applicants for operating licenses for nuclear power plants an opportunity to review the licenses before they are issued in final form, and we believe that it is appropriate to afford GE an analogous opportunity to review the design certification for the ABWR before it is finalized.
- The SRG and Commission accepted many of the comments submitted by GE (including NEI's comments that GE incorporated by reference). Therefore, we believe that GE can provide an especially valuable function in ensuring that the language in the design certification rule accurately and clearly reflects the Commission's intent. Review by GE of the implementing language will help ensure a quality product. In this regard, we note that we have previously identified clarifications and corrections in the language of the proposed rule and supplemental proposed rule, and both the staff and the Commission have found these clarifications and corrections to be useful and appropriate in implementing the content of the Commission (see, e.g., the Commission's SRM dated March 17, 1995 on SECY-95-023; SRG's August 13, 1996 Analysis, §§ I.E., I.G., and X.A.).
- A review by GE would not delay issuance of the design certification rule. Indeed, we desire that the rule be issued as expeditiously as possible and that, consistent with the Commission's SRM directive for "priority" staff action, the aforementioned three to four months of pre-issuance staff activities be significantly reduced. Based upon our discussion with the staff, we understand that the critical path to submission of the rule to the OFR is not revision of the supplemental proposed rule but instead

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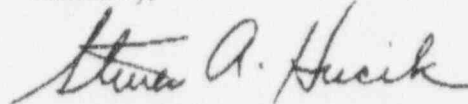
performance of ancillary activities, such as revising the final safety evaluation report (FSER) for the ABWR, and a lengthy period for the staff concurrence process. We estimate that GE could perform its review in one or two days, and we expect that any clarifications or corrections could easily and quickly be incorporated into the rule.

In this regard, we understand that the Office of General Counsel (OGC) will be completing its review of the design certification rule in the next several weeks, and we would propose that our review be conducted contemporaneously with or shortly after OGC's review.

- We have discussed the possibility of a review by GE with the NRC's Deputy General Counsel, and he has informed us that OGC has no legal objection to such a review. Similarly, we are not aware of any legal impediment to such a review.

Based upon the above, we request that you direct the staff to permit GE to review the design certification rule for the ABWR prior to its submission to the OFR for the limited purpose of ensuring that the language in the rule accurately and clearly implements the Commission's resolutions of the policy issues raised by GE.

Sincerely,



Steven A. Hucik

cc: Chairman Jackson
Commissioner Rogers
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
M. Malsch
J. Wilson