

September 9, 2002

Mr. George B. Stramback
General Electric Nuclear Energy
175 Curtner Avenue
San Jose, CA 95125

SUBJECT: GENERAL ELECTRIC COMPANY, REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE, PEACH BOTTOM ATOMIC
POWER STATION, UNITS 2 AND 3 (TAC NOS. MB5192 AND MB5193).

Dear Mr. Stramback:

By application dated May 24, 2002, Exelon Generation Company, LLC (EGC), requested an amendment for the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, operating licenses, proposing revisions to the licenses and Technical Specifications to allow operation at a higher power level. That request included a General Electric (GE) proprietary document, NEDC-33064P, "Safety Analysis Report for Peach Bottom Atomic Power Station Units 2 & 3 Thermal Power Optimization," dated May 2002. That document included your affidavit dated May 23, 2002, requesting that the document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Sections 2.790(a)(4), 2.790(d)(1), and 9.17(a)(4). A nonproprietary version, dated June 2002, has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management Systems Public Electronic Reading Room under the accession number ML021910539.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (1) 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 constitutes a competitive economic advantage over other companies; and
- (2) 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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of your statements, have concluded that you have not provided sufficient justification for us to determine that the information sought to be withheld from public disclosure contains proprietary, or confidential commercial or financial information. Specifically, NEDC-33064P contains numerous instances where information that is sought to be withheld is known to have already been disclosed to the public. As an example, GE claims that the following material (page 3-2 of NEDC-33064P) is proprietary:

The reactor vessel material surveillance program consists of three capsules for each unit. One capsule containing Charpy specimens was removed from the PBAPS Unit 2

vessel after 7.53 EFPY of operation; it was tested, reconstituted, and placed back in the vessel during the 2R08 Refueling Outage. One capsule containing Charpy specimens was removed from the PBAPS Unit 3 vessel after 7.57 EFPY of operation; it was tested, reconstituted, and placed back in the vessel during the 3R08 Refueling Outage. The remaining two capsules in each unit have been in their respective reactor vessels since plant startup.

This material is also contained in the PBAPS Updated Final Safety Analysis Report (UFSAR), Section 4.2.6, "Inspection and Testing," which has been made public.

In a second example, GE claims that the following material (page 8-1 of NEDC-33064P) is proprietary:

Building ventilation systems control airborne radioactive gases by using devices such as high efficiency particulate air (HEPA) and charcoal filters, and radiation monitors that activate isolation dampers or trip supply and exhaust fans, or by maintaining negative or positive air pressure to limit migration of gases.

The above material is contained in the PBAPS UFSAR, Section 5.3, "Secondary Containment System," which has been made public. There are other examples of material in the report which are claimed to be proprietary, but are well known in the industry and have been made public. Accordingly, the NRC staff does not agree that these statements contain trade secrets or privileged or confidential commercial information in accordance with 10 CFR 2.790(b)(4)(iv).

Moreover, as noted in paragraph (8) of your May 23, 2002, affidavit, the remainder of NEDC-33064P (that portion of the report not delineated with bars marked in the margins) is claimed to be proprietary because it constitutes a confidential compilation of information. Since the non-proprietary version of NEDC-33064 contains inadequate information to support the proposed PBAPS power uprate, and because the NRC staff cannot confidently divulge any part of NEDC-33064P, the NRC staff concludes that it cannot inform the public as to the bases, if any, for approval of the proposed power uprate.

Accordingly, we have concluded that the information sought to be withheld from public disclosure does not meet the requirements of 10 CFR 2.790. Therefore, your request to withhold NEDC-33064P from public disclosure is denied. Should you decide to resubmit NEDC-33064P, we request that you limit the scope of the information that you seek to withhold from public disclosure to those pieces of information that meet the requirements of 10 CFR 2.790. In addition, should you decide to resubmit NEDC-33064P, we request that the companion non-proprietary report be a simple redaction of NEDC-33064P.

In 30 days from the date of this letter, the subject documents will be placed in the NRC's Public Document Room. If, within 30 days of the date of this letter, you request withdrawal of the documents in accordance with 10 CFR 2.790(c), your request will be considered in light of applicable statutes and regulations, and a determination made whether the documents will be withheld from public disclosure and returned to you.

G. Stramback

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If you have any questions regarding this matter, I may be reached at 301-415-2901.

Sincerely,

/RA/

John P. Boska, Project Manager, Section 2
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-277 and 50-278

cc: See next page

G. Stramback

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Sincerely,

/RA/

John P. Boska, Project Manager, Section 2
Project Directorate I
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Office of Nuclear Reactor Regulation

Docket Nos. 50-277 and 50-278

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