

December 19, 2007

Mr. Robert E. Brown
Senior Vice President, Regulatory Affairs
GE-Hitachi Nuclear Americas LLC
3901 Castle Hayne Rd MC A-45
Wilmington, NC 28401

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(MFN 07-448)

Dear Mr. Brown:

By letter dated August 20, 2007, and associated affidavit executed on August 20, 2007, by James C. Kinsey, Mr. Kinsey indicated that the information contained in response to portion of the Nuclear Regulatory Commission (NRC) Request for Additional Information (RAI) Letter No. 66 related to economic simplified boiling water reactor (ESBWR) design certification application RAI Numbers 21.6-63, 21.6-78, 21.6-83, should be withheld as proprietary. Mr. Kinsey requested that this information be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390.

A nonproprietary copy of this information was provided in Enclosure 2, was placed in the NRC Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ADAMS Accession No. ML072350147).

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

1. The information discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GEH's competitors without license from GEH constitutes a competitive economic advantage over other companies; and
2. The 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 the August 20, 2007, letter and affidavit in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements contained therein, have determined that the information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

R. Brown

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Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the document. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, I may be reached at 301-415-2875.

Sincerely,

/RA/

Amy E. Cabbage, Senior Project Manager
ESBWR/ABWR Projects Branch 1
Division of New Reactor Licensing
Office of New Reactors

Docket No. 52-010

cc: See next page

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Amy E. Cabbage, Senior Project Manager
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NAME	IBerrios	SCGreen	AECabbage	JDonoghue	MAShuaibi
DATE	08/03/2007	08/29/2007	10/09/2007	11/20/2007	12/19/2007

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cc:

kimberly.milchuck@ge.com

Ms. Michele Boyd
Legislative Director
Energy Program
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

W. Craig Conklin, Director
Chemical and Nuclear Preparedness &
Protection Division (CNPPD)
Office of Infrastructure Protection
Department of Homeland Security
Washington, DC 20528

Mr. Marvin Fertel
Senior Vice President
and Chief Nuclear Officer
Nuclear Energy Institute
1776 I Street, NW
Suite 400
Washington, DC 20006-3708

Mr. Ray Ganthner
AREVA, Framatome ANP, Inc.
3315 Old Forest Road
P.O. Box 10935
Lynchburg, VA 24506-0935

Vanessa E. Quinn, Acting Director
Technological Hazards Division
National Preparedness Directorate
Federal Emergency Management Agency
500 C Street, NW
Washington, DC 20472

Email

APH@NEI.org (Adrian Heymer)
art.alford@ge.com (Art Alford)
awc@nei.org (Anne W. Cottingham)
bennettS2@bv.com (Steve A. Bennett)
bevans@enercon.com (Bob Evans)
bob.brown@ge.com (Robert E. Brown)
BrinkmCB@westinghouse.com (Charles Brinkman)
chris.maslak@ge.com (Chris Maslak)
CumminWE@Westinghouse.com (Edward W. Cummins)
cwaltman@roe.com (C. Waltman)
dan1.williamson@ge.com (Dan Williamson)
david.hinds@ge.com (David Hinds)
david.lewis@pillsburylaw.com (David Lewis)
David.piepmeyer@ge.com (David Piepmeyer)
dennis.chin@ge.com (Dennis Chin)
dlochbaum@UCSUSA.org (David Lochbaum)
don.lewis@ge.com (Don Lewis)
erg-xl@cox.net (Eddie R. Grant)
Eugene_Grecheck@dom.com (Eugene S. Grecheck)
frankq@hursttech.com (Frank Quinn)
Frostie.white@ge.com (Frostie White)
gcesare@enercon.com (Guy Cesare)
george.honma@ge.com (George Honma)
george.stramback@gene.ge.com (George Stramback)
george.wadkins@ge.com (George Wadkins)
GovePA@BV.com (Patrick Gove)
greshaja@westinghouse.com (James Gresham)
gzinke@entergy.com (George Alan Zinke)
hickste@earthlink.net (Thomas Hicks)
james.beard@gene.ge.com (James Beard)
jcurtiss@winston.com (Jim Curtiss)
jeff.waal@ge.com (Jeff Waal)
jgutierrez@morganlewis.com (Jay M. Gutierrez)
jim.kinsey@ge.com (James Kinsey)
jim.riccio@wdc.greenpeace.org (James Riccio)
jim.rogers@ge.com (Jim Rogers)
JJNesrsta@cpsenergy.com (James J. Nesrsta)
joel.Friday@ge.com (Joel Friday)
John.o'Neill@pillsburylaw.com (John O'Neill)
john.sorensen@ge.com (John Sorensen)
Joseph_Hegner@dom.com (Joseph Hegner)
junichi_uchiyama@mnes-us.com (Junichi Uchiyama)
kathy.sedney@ge.com (Kathy Sedney)
kathy.warnock@ge.com (Kathy Warnock)
kenneth.ainger@exeloncorp.com (Kenneth Ainger)
KSutton@morganlewis.com (Kathryn M. Sutton)
kurt.schaefer@ge.com (Kurt Schaefer)

kwaugh@impact-net.org (Kenneth O. Waugh)
laura.bello@ge.com (Laura Bello)
lou.lanese@ge.com (Lou Lanese)
MaddenG@BV.com (George Madden)
Margaret.Bennet@dom.com (Margaret Bennet)
maria.webb@pillsburylaw.com (Maria Webb)
mark.beaumont@wsms.com (Mark Beaumont)
Marvin.Smith@dom.com (Marvin L. Smith)
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)
media@nei.org (Scott Peterson)
mgiles@entergy.com (M. Giles)
mike_moran@fpl.com (Mike Moran)
mwetterhahn@winston.com (M. Wetterhahn)
nirsnet@nirs.org (Michael Mariotte)
PAC2@nrc.gov (Peter Cochran)
pareez.golub@ge.com (Pareez Golub)
Pat.Woodfin@ge.com (Pat Woodfin)
patriciaL.campbell@ge.com (Patricia L. Campbell)
paul.gaukler@pillsburylaw.com (Paul Gaukler)
Paul@beyondnuclear.org (Paul Gunter)
peter.jordan@ge.com (Peter Jordan)
phinnen@entergy.com (Paul Hinnenkamp)
pshastings@duke-energy.com (Peter Hastings)
randy.newton@ge.com (Randy Newton)
RJB@NEI.org (Russell Bell)
RKTemple@cpsenergy.com (R.K. Temple)
roberta.swain@ge.com (Roberta Swain)
ronald.hagen@eia.doe.gov (Ronald Hagen)
sandra.sloan@areva.com (Sandra Sloan)
SauerB@BV.com (Robert C. Sauer)
sfrantz@morganlewis.com (Stephen P. Frantz)
sharon.lyons@ge.com
steven.hucik@ge.com (Steven Hucik)
steven.stark@ge.com (Steven Stark)
tom.miller@hq.doe.gov (Tom Miller)
trsmith@winston.com (Tyson Smith)
VictorB@bv.com (Bill Victor)
waraksre@westinghouse.com (Rosemarie E. Waraks)
wayne.marquino@ge.com (Wayne Marquino)
whorin@winston.com (W. Horin)