



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549-4561

March 1, 2012

Ronald O. Mueller  
Gibson, Dunn, & Crutcher LLP  
shareholderproposals@gibsondunn.com

Re: General Electric Company  
Incoming letter dated February 13, 2012

Dear Mr. Mueller:

This is in response to your letter dated February 13, 2012 concerning the shareholder proposal submitted to GE by GE Stockholders' Alliance, Nancy Allen, Kay K. Drey, Faith Adams Young and Betty F. Weitz. We also have received a letter from the proponents dated February 16, 2012. On January 17, 2012, we issued our response expressing our informal view that GE could not exclude the proposal from its proxy materials for its upcoming annual meeting. You have asked us to reconsider our position.

After reviewing the information contained in your letter, we find no basis to reconsider our position.

Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Jonathan A. Ingram  
Deputy Chief Counsel

cc: Patricia T. Birnie  
GE Stockholders' Alliance  
5349 W. Bar X Street  
Tucson, AZ 85713

GE Stockholders' Alliance  
5349 W. Bar X Street, Tucson, AZ 85713

February 16, 2012

Office of the Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

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2012 FEB 21 PM 4:53  
OFFICE OF CHIEF COUNSEL  
CORPORATION FINANCE

Re: Opposing General Electric Company's effort to disqualify our Stockholder Proposal

Attn: Securities and Exchange Commission Staff Reviewers

This letter is a response to the February 13, 2012, letter to you from General Electric's attorney, Ronald O. Mueller, of Gibson Dunn & Crutcher LLP. We strongly believe the substance of our General Electric Stockholders' Alliance (GESA) resolution deals specifically with Company Policy and should be included on the agenda of the GE Annual Meeting on April 25, 2012.

On November 4, 2011, the GE Stockholders' Alliance submitted a stockholder proposal to the General Electric Company entitled: "Resolution Urging General Electric to Withdraw from Nuclear Energy." (copy enclosed)

On December 12, 2011, GE's attorney, Ronald O. Mueller, submitted a letter to the SEC stating they advocated disqualifying our proposal, claiming it was primarily "ordinary business."

On December 22, 2011, we responded, pointing out that our proposal was in response to GE's stated Company Policy on Nuclear Energy, dated December 1, 2009. We also offered to add one word as an amendment to clarify that focus.

On January 13, 2012, Mr. Mueller wrote the SEC stating that our offer to add one word of clarification was not legal because it was received 37 days after GE's deadline for filing stockholder proposals.

On January 17, 2012, Joseph McCann, Attorney-Advisor of the SEC, wrote, in part, that the SEC Staff observed that the original proposal "may focus on these significant policy issues, and we are unable to conclude that the arguments presented in GE's no-action request establish otherwise." In addition, Mr. McCann stated: "There seems to be some basis for your [Gibson Dunn's] view that GE may exclude the second proposal [the GESA proposed amendment to include one word, namely "energy," that we had suggested for clarification], under rule 14a-8(e)(2), because GE received our proposed amendment after the deadline for submitting proposals."

On February 13, 2012, Mr. Mueller sent a letter requesting that the SEC Staff reconsider its January 17, 2012, response, and asking that the Staff concur in the exclusion of the Proposal from the Company's 2012 Proxy Materials. Mr. Mueller included additional information and analysis of precedent in his letter.

We have carefully reviewed the information in Mr. Mueller's February 13, 2012, letter. We

believe Gibson Dunn has not opened up a new level of argument that would allow the SEC to reverse its earlier decision.

Nuclear power is currently a key public policy issue. We believe our proposed resolution is timely, appropriate and important and merits consideration by the stockholders of the General Electric Company, a significant provider, nationally and internationally, of the nuclear energy technology.

Therefore we respectfully request that the SEC re-affirm its January 17, 2012, position, namely that: "We are unable to concur in your [Gibson Dunn] view that GE may exclude the first proposal under rule 14a-8(i)(7). In this regard, we note that economic and safety considerations attendant to nuclear power plants are significant policy issues, and we are unable to conclude that the arguments presented in GE's no-action request establish otherwise. Accordingly, we do not believe that GE may omit the first proposal from its proxy material in reliance on rule 14a-8(i)(7)."

Respectfully submitted,

A handwritten signature in black ink that reads "Patricia T. Birnie". The signature is written in a cursive style with a large initial "P".

Patricia T. Birnie, Chair

cc: Ronald O. Mueller, Gibson Dunn & Crutcher LLP  
Lori Zyskowski, General Electric Company  
Nancy Allen, Co-filer  
Kay Drey, Co-filer  
Faith Adams Young, Co-filer  
Betty Weitz, Co-filer

Enclosed: Copy of GESA Stockholder Proposal for the GE 2012 Annual Meeting

## **Resolution Urging General Electric to Withdraw from Nuclear Energy**

### **WHEREAS:**

On December 1, 2009, General Electric issued a policy statement affirming its support of nuclear energy, even though no safe disposal location or technology exists, and may never exist, for the permanent isolation of the dangerous radioactive waste that continues to accumulate at all reactor sites;

Every nuclear power reactor generates plutonium that is in demand, worldwide, for weapons production;

On March 11, 2011, a nuclear catastrophe began at Fukushima Dai-ichi, a site that contained six GE reactors;

Motivated by the ongoing Japanese disaster, Germany, Italy and Switzerland have announced they will abandon nuclear power, with other countries considering the same commitment;

On September 18, 2011, German engineering giant Siemens announced it will halt its manufacturing of nuclear products, and will focus on solar, wind and geothermal technologies;

Many U.S. reactors are in locations threatened by extreme natural assaults (hurricanes, floods, earthquakes and tornadoes), with the GE Mark I reactors at especially high risk due to major flaws identified at least as early as 1971;

**THEREFORE BE IT RESOLVED** that, as GE stockholders, we urge our company to reverse its nuclear energy policy and, as soon as possible, phase out all its nuclear activities, including proposed fuel reprocessing and uranium enrichment.

### **SUPPORTING STATEMENT:**

Contrary to nuclear industry claims, the U.S. Nuclear Regulatory Commission has not been rigorously regulating nuclear power operations, but instead often reduces safety requirements when needed changes would be impossible or too expensive. (See the June 2011 Associated Press series by reporter Jeff Donn, summarizing a year-long investigation of NRC operations.)

Because of the dangerously crowded condition of the irradiated fuel pools at all GE reactors, it is now recommended that fuel rods at least five years old should be transferred from the fuel pool to hardened dry storage casks outside the reactor building.

Page 2. Resolution Urging General Electric to Withdraw from Nuclear Energy

Few people know that radioactive liquids and gases are released into the environment during the routine operation of nuclear reactors. Scientists and physicians agree that there is no safe dose of radiation.

Safe solutions to climate change include improvements in energy efficiency, and the use of solar, wind, geothermal and other renewable energy technologies. These alternatives can be implemented much faster and cheaper than building new nuclear reactors. Furthermore, the ailing U.S. economy cannot afford the massive taxpayer subsidies and loan guarantees that would be required to build and operate new nuclear reactors. "Nuclear is unnecessary and all its risks can be avoided by using renewables, conservation and efficiency." (Dr. Arjun Makhijani, author of *Carbon-Free and Nuclear-Free*, 2007)

GE should no longer continue to place families, communities and our planet's finite land and water at such great risk.

It is the moral duty of GE to stop promoting the nuclear illusion and, instead, protect plants, animals and the human gene pool from further radiation damage.

Submitted by the GE Stockholders' Alliance, Patricia T. Birnie, Chair,  
5349 W. Bar X Street, Tucson, AZ 85713-6402. 520-661-9671 November 4, 2011

February 13, 2012

VIA E-MAIL

Office of Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Re: *General Electric Company*  
*Request for Reconsideration*  
*Shareowner Proposal of the GE Stockholders' Alliance, et al.*  
*Exchange Act of 1934—Rule 14a-8*

Ladies and Gentlemen:

On December 12, 2011, we submitted a letter (the "Initial Request") on behalf of our client, General Electric Company ("GE" or the "Company"), notifying the staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission that the Company intended to omit from its proxy statement and form of proxy for its 2012 Annual Meeting of Shareowners (collectively, the "2012 Proxy Materials") a shareowner proposal and statements in support thereof (collectively, the "Proposal") received from the GE Stockholders' Alliance, Nancy Allen, Kay K. Drey, Faith Adams Young, and Betty F. Weitz (the "Proponents"). The Initial Request indicated our belief that the Proposal could be excluded from the 2012 Proxy Materials because the Proposal pertains to matters of the Company's ordinary business operations pursuant to Rule 14a-8(i)(7).

On January 17, 2012, the Staff issued a response to the Initial Request stating, "It appears that the first proposal may focus on these significant policy issues, and we are unable to conclude that the arguments presented in GE's no-action request establish otherwise. Accordingly, we do not believe that GE may omit the first proposal from its proxy materials in reliance on rule 14a-8(i)(7)."

We continue to believe that the Proposal may be excluded because it requires actions that do not implicate significant policy issues. We note that the Staff has consistently concurred that a proposal may be excluded under Rule 14a-8(i)(7) when the action requested in the proposal encompasses both ordinary and non-ordinary business matters and we believe that the novel "may focus on" standard referred to in the Staff's response is inappropriate in a proposal

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such as this one where the scope of the action requested encompasses ordinary business matters. Accordingly, we request that the Staff reconsider its January 17, 2012 response and concur in our view that the Proposal is excludable under Rule 14a-8(i)(7).

## **The Proposal Does Not Focus On A Significant Policy Issue.**

The Proposal is captioned "Resolution Urging General Electric to Withdraw from Nuclear Energy" and requests that GE "reverse its nuclear energy policy and, as soon as possible, phase out all its nuclear activities, including proposed fuel reprocessing and uranium enrichment." The Proposal does not "focus" on an aspect of GE's "nuclear activities" that raises a significant policy issue. Instead, it requests two actions; while the first relates to nuclear energy, the second is a broadly worded mandate to phase out "all" nuclear activities. Nothing in the Proposal, the recitals or the supporting statements limit or focus the scope of this second prong. The two types of activities that are specifically mentioned in the Proposal – fuel reprocessing and uranium enrichment – are not phrased as the focus of the Proposal, but are instead referenced as merely being included within the broad scope of the Proposal, and are not discussed anywhere else. Likewise, the recitals and supporting statement do not identify or focus on a specific activity of the Company that the Proposal asks the Company to cease, but instead largely refer to a variety of activities by countries, regulators or other companies. The only specific references to GE activities in these paragraphs consist of a reference to GE issuing the policy statement referred to in the first prong of the Proposal, a reference to GE "promoting the nuclear illusion," and assertions regarding the status of existing nuclear reactors that were designed and supplied by GE years ago. In the context of these vague references to a variety of different activities and statements, the Proposal's request that the company "phase out all its nuclear activity" is not provided any further context or focus; certainly nothing in the Proposal or supporting statements limit or focus the scope of the word "all." Thus, a shareowner reading the Proposal, recitals and supporting statement and seeking to give meaning to both prongs of the Proposal will know of certain specific activities that are within the scope of actions requested under the Proposal, but has no basis to conclude that these are the only activities that would be affected by implementation of the Proposal or to determine what else is encompassed by the reference to "all its nuclear activities."

The Proponents' December 22, 2011 letter conceded that the language in the Proposal was broader than the intended scope of the Proposal, and that a revision to the language would be appropriate in order to reflect the intention of the Proposal: "to urge GE to reverse its Nuclear Energy Policy." Nothing in the Proposal, the recitals or supporting statement suggest that this is the limited scope of the Proposal. In short, "all" means all, and the Proposal, recitals and supporting statement do not limit or focus the express language of the

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Proposal to the policy issue of the economic and safety considerations attendant to nuclear power plants.

Not all of the Company's "nuclear activities" implicate significant policy issues. As discussed in the Initial Request, GE's Healthcare business operates full-service nuclear pharmacies, which (like nuclear power plants) are regulated in the U.S. by the Nuclear Regulatory Commission, and yet which operations do not raise policy issues regarding the economic and safety considerations attendant to nuclear power plants. In addition to the Company's other nuclear-related activities encompassed by the Proposal and addressed in the Initial Request, even within GE's Energy Infrastructure business, not all of its operations involving nuclear energy implicate significant policy issues. For example, GE's nuclear energy business has developed technology that can be deployed to recycle fuel from nuclear power plants and use it to generate additional electricity,<sup>1</sup> exactly the subject matter of the proposal in *Niagara Mohawk Holdings, Inc.* (avail. Jan. 3, 2001), cited in the Initial Request, that the Staff concurred did not implicate significant policy issues. GE's line of radiation detectors<sup>2</sup> are used both to monitor nuclear reactors and in homeland security applications to detect against potential nuclear terrorist threats.<sup>3</sup> GE's nuclear energy business also develops radioisotopes that are used in millions of cancer treatments each year.<sup>4</sup> As stated in GE's 2009 policy statement on nuclear energy, the Company's business includes supplying non-nuclear products and services to the nuclear power business, including steam turbines and electrical equipment.<sup>5</sup> Finally, GE Energy Financial Services, through a joint venture, may invest in, and offer commercial collaboration opportunities to, venture- and growth-stage energy technology companies in the nuclear energy sector, among others.<sup>6</sup>

### **The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Proposal Pertains To Matters Of The Company's Ordinary Business Operations.**

The Staff has consistently concurred that a proposal may be excluded in its entirety when the scope of the proposal is so broad as to encompass both significant policy issues and ordinary business matters. For instance, in *PetSmart, Inc.* (avail. Mar. 24, 2011), the Staff concurred

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<sup>1</sup> See [http://www.ge-energy.com/solutions/Advanced\\_Recycling\\_Center.jsp](http://www.ge-energy.com/solutions/Advanced_Recycling_Center.jsp).

<sup>2</sup> See [http://www.ge-energy.com/products\\_and\\_services/products/radiation\\_measurement/radiation\\_measurement\\_radiation\\_detection.jsp](http://www.ge-energy.com/products_and_services/products/radiation_measurement/radiation_measurement_radiation_detection.jsp).

<sup>3</sup> See <http://www.genewscenter.com/Press-Releases/GE-to-Combine-Video-Surveillance-and-Radiation-Detection-to-Enhance-Nuclear-Threat-Detection-in-Public-Settings-13a5.aspx>.

<sup>4</sup> See <http://www.gereports.com/ge-inks-nuclear-deal-for-cancer-treatment-isotopes/>.

<sup>5</sup> See [http://site.ge-energy.com/prod\\_serv/products/nuclear\\_energy/en/downloads/GE\\_Report\\_on\\_Nuclear\\_Power\\_Business\\_\(Final\).pdf](http://site.ge-energy.com/prod_serv/products/nuclear_energy/en/downloads/GE_Report_on_Nuclear_Power_Business_(Final).pdf).

<sup>6</sup> See *JPMorgan Chase & Co.* (avail. Mar. 12, 2010) (Staff concurred that a proposal that would have required the company to adopt a policy barring financing of companies engaged in a particular mining activity did not raise a significant policy issue).

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that the company could exclude under Rule 14a-8(i)(7) a proposal that called for suppliers to certify that they had not violated certain laws that contain provisions regarding the humane treatment of animals. In concurring with the exclusion of the proposal, the Staff noted, "Although the humane treatment of animals is a significant policy issue, we note your view that the scope of the laws covered by the proposal is 'fairly broad in nature from serious violations such as animal abuse to violations of administrative matters such as record keeping.' Accordingly, we will not recommend enforcement action to the Commission if PetSmart omits the proposal from its proxy materials in reliance on rule 14a-8(i)(7)." The supporting statements accompanying the proposal in *PetSmart* focused solely on the humane treatment of animals; there was not a single reference or allusion to the fact that the laws addressed in the proposal encompassed other matters implicating ordinary business matters. Nevertheless, the Staff concurred with exclusion of the Proposal under Rule 14a-8(i)(7).

In *Union Pacific Corp.* (avail. Feb. 25, 2008), the Staff concurred in the exclusion of a proposal requesting disclosures of the company's efforts to safeguard the company's operations from terrorist attacks and other homeland security incidents. The proposal, as with the Proposal here, consisted of two prongs, and the entire supporting statement in the proposal addressed the first prong (threats from terrorist acts). Nevertheless, the Staff concurred that the proposal could be excluded because the proposal's reference to "terrorist attacks and other homeland security incidents" encompassed both extraordinary incidents, such as terrorism, and ordinary incidents within the jurisdiction of the Department of Homeland Security, such as earthquakes and floods. *See also, Genetronics Biomedical Corp.* (avail. Apr. 4, 2003) (Staff concurred with exclusion under Rule 14a-8(i)(7) of a proposal stipulating "that the officers and directors of the company shall avoid 'all' financial conflicts of interest," with the Staff observing that "the proposal appears to include matters relating to non-extraordinary transactions"); *Lucent Technologies, Inc.* (avail. Nov. 6, 2001) (Staff concurred with exclusion under Rule 14a-8(i)(7) of a proposal requesting a salary reduction for "ALL officers and directors" of the company because "all" included both executive and non-executive officers).

We believe the Staff's response to the Initial Request is inconsistent with these precedents, which demonstrate that the Proposal is excludable regardless of whether or not some of the Company's "nuclear activities" raise significant policy issues. We are aware of only two other incidents in which the Staff has applied a standard premised on whether a proposal "may focus on ... significant policy issues." In *Dominion Resources, Inc.* (avail. Feb. 9, 2011), the proposal urged the board to take certain actions relating to "nuclear construction" and "demand control and new renewable generation sources for the safest and quickest returns to shareholders, stakeholders, community and country." The company argued that the determination of how to promote safe and quick returns to shareholders implicated ordinary business matters in a manner that was inconsistent with Rule 14a-8(i)(7). The Staff

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did not concur. In *Wal-Mart Stores, Inc.* (avail. Mar. 29, 2011), the proposal requested that the board take the necessary steps to require that the company's suppliers publish annually an independently verifiable sustainability report. The company argued that the proposal related to the company's retention of suppliers, a topic which the Commission has stated relates to ordinary business operations, and that any social policy issue implicated by the proposal did not transcend the impact on the company's day-to-day business operations, but the Staff did not concur. In both of these letters, and in other situations in which the Commission and Staff have historically examined the "focus" of a proposal for purposes of Rule 14a-8(i)(7), that review is undertaken only when distinguishing whether a proposal that relates to a day-to-day aspect of business (such as employment matters, relations with suppliers, or engaging in a certain business activity) focuses on a sufficiently significant social policy issue as to transcend the ordinary business exclusion.<sup>7</sup> In this context, the test has been dispositive, with a proposal either being found to address ordinary business issues or rising above those matters to raise significant policy issues.<sup>8</sup> In contrast, in the *PetSmart, Union Pacific, Genetronics* and *Lucent* precedent cited above, and in the Proposal, the proposal encompasses both an action that implicates a significant policy issue and other actions, not incidental to the first, that do not implicate a significant policy issue. In the situation where the scope of a proposal is so broad as to also encompass ordinary business matters, the Exchange Act Release and Staff Legal Bulletins cited above and a long line of Staff precedent demonstrate that the proposal can be excluded under Rule 14a-8(i)(7).

The Proposal requests that the Company "phase out all its nuclear activities." As discussed above, some of the Company's nuclear activities implicate significant policy issues, but some do not. Because the Proposal encompasses these ordinary business matters as well as any significant policy issues related to nuclear power plants, we continue to believe that the Proposal may be excluded in its entirety under Rule 14a-8(i)(7).

## CONCLUSION

Based on the additional information and analysis of precedent in this letter, we respectfully request that the Staff reconsider its January 17, 2012 response and concur in the exclusion of the Proposal from the Company's 2012 Proxy Materials. We respectfully request that the Staff consider this matter on an expedited basis, as the Company currently plans to print the 2012 Proxy Materials on or about March 12, 2012.

<sup>7</sup> Exchange Act Rel. No. 40018 (May 21, 1998).

<sup>8</sup> Staff Legal Bulletin No. 14A (July 12, 2002) (addressing when proposals that related to shareholder approval of equity compensation plans will be found to raise significant policy issues); Staff Legal Bulletin No. 14C (June 28, 2005) (setting forth a framework, subsequently revised, for determining whether proposals seeking an evaluation of risk raised a significant policy issue).

# GIBSON DUNN

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We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to [shareholderproposals@gibsondunn.com](mailto:shareholderproposals@gibsondunn.com). If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8671 or Lori Zyskowski, the Company's Corporate & Securities Counsel, at (203) 373-2227.

Sincerely,



Ronald O. Mueller

Enclosures

cc: Lori Zyskowski, General Electric Company  
GE Stockholders' Alliance  
Nancy Allen  
Kay K. Drey  
Faith Adams Young  
Betty F. Weitz

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