



Westinghouse Electric Company LLC

Box 355
Pittsburgh Pennsylvania 15230-0355
September 5, 2001

AW-01-1478

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

Attention: Mr. J. S. Wermiel, Chief
Reactor Systems Branch
Division of Systems Safety and Analysis

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Ref: Indian Point Unit No. 2 letter, NL-01-104, August 29, 2001, Docket No. 50-247

Subject: WCAP-14936, "Code Qualification Document for Best Estimate Small
Break LOCA Analysis," Revision 0, August 2001 (Proprietary)

Dear Mr. Wermiel:

The application for withholding is submitted by Westinghouse Electric Company LLC ("Westinghouse"), pursuant to the provisions of paragraph (b)(1) of Section 2.790 of the Commission's regulations. It contains commercial strategic information proprietary to Westinghouse and customarily held in confidence.

The proprietary material for which withholding is being requested is identified in the proprietary version of the subject presentation material. In conformance with 10 CFR Section 2.790, Affidavit AW-01-1478 accompanies this application for withholding, setting forth the basis on which the identified proprietary information may be withheld from public disclosure.

Accordingly, it is respectfully requested that the subject information which is proprietary to Westinghouse be withheld from public disclosure in accordance with 10 CFR Section 2.790 of the Commission's regulations.

Correspondence with respect to this application for withholding or the accompanying affidavit should reference AW-01-1478 and should be addressed to the undersigned.


H. A. Sepp, Manager
Regulatory and Licensing Engineering

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WCAP-14936

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cc: Mr. Hubert J. Miller
Regional Administrator – Region I
US Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Mr. Patrick D. Milano, Senior Project Manager
Project Directorate I.1.
Division of Licensing Project Management
US Nuclear Regulatory Commission
Mail Stop 0-8-C-2
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Senior Resident Inspector (with two copies of WCAP-14936)
US Nuclear Regulatory Commission
PO Box 38
Buchanan, NY 10511

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

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COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared H. A. Sepp, Manager, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Westinghouse Electric Company LLC ("Westinghouse"), and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:



H. A. Sepp, Manager
Regulatory and Licensing Engineering

Sworn to and subscribed
before me this 16th day
of September, 2001



Notarial Seal
Lorraine M. Piplica, Notary Public
Monroeville Boro, Allegheny County
My Commission Expires Dec. 14, 2003
Member, Pennsylvania Association of Notaries

Notary Public

- (1) I am Manager, Regulatory and Licensing Engineering in Nuclear Services of the Westinghouse Electric Company LLC ("Westinghouse"), and as such, I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with nuclear power plant licensing and rulemaking proceedings, and am authorized to apply for its withholding on behalf of the Westinghouse Electric Company LLC.
- (2) I am making this Affidavit in conformance with the provisions of 10CFR Section 2.790 of the Commission's regulations and in conjunction with the Westinghouse application for withholding accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by the Westinghouse Electric Company LLC in designating information as a trade secret, privileged or as confidential commercial or financial information.
- (4) Pursuant to the provisions of paragraph (b)(4) of Section 2.790 of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.
 - (i) The information sought to be withheld from public disclosure is owned and has been held in confidence by Westinghouse.
 - (ii) The information is of a type customarily held in confidence by Westinghouse and not customarily disclosed to the public. Westinghouse has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitute Westinghouse policy and provides the rational basis required.

Under that system, information is held in confidence if it falls in one or more of the following areas of potential competitive advantage:

- (a) The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any of Westinghouse's competitors without license from Westinghouse constitutes a competitive economic advantage over other companies.
- (b) It consists of supporting data, including test data, relative to a process (or component, structure, tool, method, etc.), the application of which data secures a competitive economic advantage, e.g., by optimization or improved marketability.
- (c) Its use 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 a similar product.
- (d) It reveals cost or price information, production capacities, budget levels, or commercial strategies of Westinghouse, its customers or suppliers.
- (e) It reveals aspects of past, present, or future Westinghouse or customer funded development plans and programs of potential commercial value to Westinghouse.
- (f) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the Westinghouse system which include the following:

- (a) The use of such information by Westinghouse gives Westinghouse a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the Westinghouse competitive position.
- (b) It is information which is marketable in many ways. The extent to which such information is available to competitors diminishes the Westinghouse ability to sell products and services involving the use of the information.
- (c) Use by our competitor would put Westinghouse at a competitive disadvantage by reducing his expenditure of resources at our expense.
- (d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving Westinghouse of a competitive advantage.
- (e) Unrestricted disclosure would jeopardize the position of prominence of Westinghouse in the world market, and thereby give a market advantage to the competition of those countries.

- (f) The Westinghouse capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage. .

- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10CFR Section 2.790, it is to be received in confidence by the Commission.

- (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge.

- (v) The proprietary information sought to be withheld is that which is appropriately marked in the proprietary attachment, WCAP-14936, "Code Qualification Document for Best Estimate Small Break LOCA Analysis," Revision 0, August 2001, for submittal to the Commission, being transmitted by Westinghouse Electric Company LLC Application for Withholding Proprietary Information from Public Disclosure, Henry A. Sepp, Westinghouse LLC, Manager Regulatory and Licensing Engineering, to the attention of J. S. Wermiel, Chief, Reactor Systems Branch Division of Systems Safety and Analysis.

This information is part of that which will enable Westinghouse to:

- (a) Analyze postulated small break LOCA events on a best-estimate basis.

- (b) Assist customers to obtain license changes resulting from improved small break LOCA.

Further this information has substantial commercial value as follows:

- (a) Westinghouse can use this analysis capability to further enhance their licensing position over their competitors.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Westinghouse because it would enhance the ability of competitors to provide similar evaluation justifications and licensing defense services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

The development of the technology described in part by the information is the result of several months of development effort and the expenditure of a considerable sum of money.

In order for competitors of Westinghouse to duplicate this information, a significant manpower effort, having the requisite talent and experience, would have to be expended for developing a comparable method.

Further the deponent sayeth not.

PROPRIETARY INFORMATION NOTICE

Transmitted herewith are proprietary and/or non-proprietary versions of documents furnished to the NRC in connection with requests for generic and/or plant-specific review and approval.

In order to conform to the requirements of 10 CFR 2.790 of the Commission's regulations concerning the protection of proprietary information so submitted to the NRC, the information which is proprietary in the proprietary versions is contained within brackets, and where the proprietary information has been deleted in the non-proprietary versions, only the brackets remain (the information that was contained within the brackets in the proprietary versions having been deleted). The justification for claiming the information so designated as proprietary is indicated in both versions by means of lower case letters (a) through (f) contained within parentheses located as a superscript immediately following the brackets enclosing each item of information being identified as proprietary or in the margin opposite such information. These lower case letters refer to the types of information Westinghouse customarily holds in confidence identified in Sections (4)(ii)(a) through (4)(ii)(f) of the affidavit accompanying this transmittal pursuant to 10 CFR 2.790(b)(1).

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