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

Our ref: LTR-NRC-02-17

April 4, 2002

Subject: Westinghouse Presentation on Westinghouse Fuel Criteria Evaluation Process (Slide Presentation of April 18, 2002), (Proprietary)

Dear Mr. Wermiel:

Enclosed are copies of the Proprietary and Non-Proprietary versions of the presentation material for the NRC/Westinghouse meeting on the Westinghouse Fuel Criteria Evaluation Process to be held at the NRC in Rockville, Maryland on April 18, 2002. This is an advanced draft copy of the presentation for the staff to make a determination on the proprietary nature of the meeting.

Also enclosed are:

1. One (1) copy of the Application for Withholding, AW-02-1517 with Proprietary Information Notice and Copyright Notice.

2. One (1) copy of Affidavit, AW-02-1517.

This submittal contains Westinghouse proprietary information of trade secrets, commercial or financial information which we consider privileged or confidential pursuant to 10 CFR 9.17(a)(4). Therefore, it is requested that the Westinghouse proprietary information attached hereto be handled on a confidential basis and be withheld from public disclosure.

This material is for your internal use only and may be used solely for the purpose for which it is submitted. It should not be otherwise used, disclosed, duplicated, or disseminated, in whole or in part, to any other person or organization outside the Office of Nuclear Reactor Regulation without the expressed prior written approval of Westinghouse.

T007
YG01
Add: J. Wermiel

Correspondence with respect to any Application for Withholding should reference AW-02-1517 and should be addressed to H. A. Sepp, Manager of Regulatory and Licensing Engineering, Westinghouse Electric Company, P. O. Box 355, Pittsburgh, Pennsylvania 15230-0355.

Very truly yours,

Henry A. Sepp, Manager
Regulatory and Licensing Engineering

Copy to:
S. L. Wu, NRR
R. Caruso, NRR
U. Shoop, NRR
D. Holland, NRR

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Our ref: AW-02-1517

April 4, 2002

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Subject: Westinghouse Presentation on Westinghouse Fuel Criteria Evaluation Process (Slide Presentation of April 18, 2002), (Proprietary)

Reference: Letter from H. A. Sepp to J. S. Wermiel, LTR-NRC-02-17, dated April 4, 2002

Dear Mr. Wermiel:

The application for withholding is submitted by Westinghouse Electric Company LLC, a Delaware limited liability company ("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 report. In conformance with 10 CFR Section 2.790, Affidavit AW-02-1517 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-02-1517 and should be addressed to the undersigned.

Very truly yours,

Henry A. Sepp, Manager
Regulatory and Licensing Engineering

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

ss

COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared Henry A. Sepp, 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, a Delaware limited liability company ("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:

MARGARET L. GONANO
COMMONWEALTH OF PENNSYLVANIA
NOTARY PUBLIC

Henry A. Sepp, Manager
Regulatory and Licensing Engineering

Sworn to and subscribed
before me this 4th day
of April, 2002.

Margaret L. Gonano
Notary Public

Notarial Seal
Margaret L. Gonano, Notary Public
Monroeville Boro, Allegheny County
My Commission Expires Jan. 3, 2006
Member, Pennsylvania Association Of Notaries

(1) I am Manager, Regulatory and Licensing Engineering, in Nuclear Services, of the Westinghouse Electric Company LLC, a Delaware limited liability company ("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.

(2) I am making this Affidavit in conformance with the provisions of 10 CFR 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 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 constitutes Westinghouse policy and provides the rational basis required.

Under that system, information is held in confidence if it falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

(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 10 CFR 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 and belief.

(v) The proprietary information sought to be withheld in this submittal is that which is appropriately marked "Westinghouse Presentation on Westinghouse Fuel Criteria Evaluation Process (Slide Presentation of April 18, 2002), (Proprietary)," April 4, 2002, for submittal to the Commission, being transmitted by Westinghouse Electric Company (W) letter (LTR-NRC-02-17) and Application for Withholding Proprietary Information from Public Disclosure, Henry A. Sepp, Westinghouse, Manager Regulatory and Licensing Engineering to the attention of J. S. Wermiel, Chief, Reactor Systems Branch, Division of Systems Safety and Analysis. The proprietary information as submitted by Westinghouse Electric Company is provided for the NRC staff to make a determination on the proprietary nature of the April 18, 2002 meeting.

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

(a) Make design changes within the framework of the Fuel Criteria Evaluation Process (FCEP).

(b) Assist customers in improving their fuel performance (zero defects).

Further this information has substantial commercial value as follows:

(a) The Fuel Criteria Evaluation Process defines Westinghouse design criteria, limits and methodology used in fuel development.

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 technical 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 applying the results of many years of experience in an intensive Westinghouse effort and the expenditure of a considerable sum of money.

In order for competitors of Westinghouse to duplicate this information, similar technical programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended for developing the enclosed improved core thermal performance methodology.

Further the deponent sayeth not.

Proprietary Information Notice

Transmitted herewith are proprietary and non-proprietary versions of documents furnished to the NRC. 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) 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).

Copyright Notice

The documents transmitted herewith each bear a Westinghouse copyright notice. The NRC is permitted to make the number of copies for the information contained in these reports which are necessary for its internal use in connection with generic and plant-specific reviews and approvals as well as the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or regulation subject to the requirements of 10 CFR 2.790 regarding restrictions on public disclosure to the extent such information has been identified as proprietary by Westinghouse, copyright protection not withstanding. With respect to the non-proprietary versions of these reports, the NRC is permitted to make the number of copies beyond these necessary for its internal use which are necessary in order to have one copy available for public viewing in the appropriate docket files in the public document room in Washington, DC and in local public document rooms as may be required by NRC regulations if the number of copies submitted is insufficient for this purpose. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.