

November 25, 2002

Mr. H. A. Sepp
Manager, Regulatory and
Licensing Engineering
Westinghouse Electric Company
P.O. Box 355
Pittsburgh, PA 15230-0355

SUBJECT: WESTINGHOUSE ELECTRIC COMPANY, REQUEST FOR WITHHOLDING
INFORMATION FROM PUBLIC DISCLOSURE FOR INDIAN POINT NUCLEAR
GENERATING UNIT NO. 3 (TAC MB5297)

Dear Mr. Sepp:

By letter dated September 13, 2002, Entergy Nuclear Operations, Inc., (the licensee) submitted a response to a request on August 26, 2002, for additional information from the U.S. Nuclear Regulatory Commission (NRC) for the Indian Point Nuclear Generating Unit No. 3 (IP3). The NRC staff requested the information in order to complete its review of the licensee's application for an amendment regarding a 1.4% measurement uncertainty recapture power uprate. In its September 13 letter, the licensee included your letter to the NRC dated September 11, 2002, enclosing an affidavit dated the same day, executed by Mr. J. W. Fasnacht, requesting that the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790:

Westinghouse Report WCAP-15824, Revision 1, "Power Calorimetric Uncertainty for the 1.4-Percent Upgrading of Indian Point 3," dated May 2002.

A nonproprietary copy of this document, WCAP-15940 (with same title), has been placed in the NRC's Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

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

- (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.
- (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.

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 determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the version of the submitted information marked as

H. A. Sepp

- 2 -

proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. 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 301-415-1457.

Sincerely,

/RA/

Patrick D. Milano, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-286

cc: See next page

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Official Record Copy

Indian Point Nuclear Generating Unit No. 3

cc:

Mr. Jerry Yelverton
Chief Executive Officer
Entergy Operations
1340 Echelon Parkway
Jackson, MS 39213

Mr. Michael R. Kansler
Senior Vice President and
Chief Operating Officer
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Mr. Robert J. Barrett
Vice President - Operations
Entergy Nuclear Operations, Inc.
Indian Point Nuclear Generating Unit 3
295 Broadway, Suite 3
P. O. Box 308
Buchanan, NY 10511-0308

Mr. Dan Pace
Vice President Engineering
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Mr. James Knubel
Vice President Operations Support
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Mr. Joseph DeRoy
General Manager Operations
Entergy Nuclear Operations, Inc.
Indian Point Nuclear Generating Unit 3
295 Broadway, Suite 3
P. O. Box 308
Buchanan, NY 10511-0308

Mr. John Kelly
Director - Licensing
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Ms. Charlene Faison
Licensing
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Mr. Harry P. Salmon, Jr.
Director of Oversight
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Mr. James Comiotes
Director, Nuclear Safety Assurance
Entergy Nuclear Operations, Inc.
Indian Point Nuclear Generating Unit 3
295 Broadway, Suite 3
P.O. Box 308
Buchanan, NY 10511-0308

Mr. John McCann
Manager, Licensing and Regulatory Affairs
Entergy Nuclear Operations, Inc.
Indian Point Nuclear Generating Unit 2
295 Broadway, Suite 1
P. O. Box 249
Buchanan, NY 10511-0249

Resident Inspector's Office
U.S. Nuclear Regulatory Commission
295 Broadway, Suite 3
P.O. Box 337
Buchanan, NY 10511-0337

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Mr. John M. Fulton
Assistant General Counsel
Entergy Nuclear Operations, Inc.
440 Hamilton Avenue
White Plains, NY 10601

Indian Point Nuclear Generating Unit No. 3

cc:

Ms. Stacey Lousteau
Treasury Department
Entergy Services, Inc.
639 Loyola Avenue
Mail Stop: L-ENT-15E
New Orleans, LA 70113

Mr. William M. Flynn, President
New York State Energy, Research, and
Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Mr. J. Spath, Program Director
New York State Energy, Research, and
Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Mr. Paul Eddy
Electric Division
New York State Department
of Public Service
3 Empire State Plaza, 10th Floor
Albany, NY 12223

Mr. Charles Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, NY 10271

Mayor, Village of Buchanan
236 Tate Avenue
Buchanan, NY 10511

Mr. Ray Albanese
Executive Chair
Four County Nuclear Safety Committee
Westchester County Fire Training Center
4 Dana Road
Valhalla, NY 10592

Mr. Ronald Schwartz
SRC Consultant
64 Walnut Drive
Spring Lake Heights, NJ 07762

Mr. Ronald J. Toole
SRC Consultant
Toole Insight
605 West Horner Street
Ebensburg, PA 15931

Mr. Charles W. Hehl
SRC Consultant
Charles Hehl, Inc.
1486 Matthew Lane
Pottstown, PA 19465

Mr. Alex Matthiessen
Executive Director
Riverkeeper, Inc.
25 Wing & Wing
Garrison, NY 10524

Mr. Paul Leventhal
The Nuclear Control Institute
1000 Connecticut Avenue NW
Suite 410
Washington, DC, 20036

Mr. Karl Copeland
Pace Environmental Litigation Clinic
78 No. Broadway
White Plains, NY 10603

Jim Riccio
Greenpeace
702 H Street, NW
Suite 300
Washington, DC 20001