May 15, 2003

Mr. Ian C. Rickard
Licensing Project Manager
Westinghouse Electric Company LLC
Building 4, 2000 Day Hill Road
Windsor, CT 06095-0500

SUBJECT: PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3 - REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE FOR BULLETIN 2002-01 (TAC NOS. MB4563, MB4564, AND MB4565)

Dear Mr. Rickard:

By letter dated May 17, 2002, Arizona Public Service Company (APS) submitted responses for (1) Items 4a, 5a, and 5b of NRC Bulletin 2001-01 and (2) Items 2.A and 2.B of NRC Bulletin 2002-01 for Palo Verde Nuclear Generating Station, Units 1, 2, and 3. Attachments 1 and 2 to Enclosure 2 to that letter contained the proprietary versions of the following WesDyne International reports: (1) WDI-TJ-006-02, "Demonstration of Volumetric Ultrasonic Inspection of CEDM Nozzles Using the Open Housing Scanner," Revision 0, dated May 15, 2002; and (2) WDI-TJ-002-02, "Technical Justification for Eddy Current Testing of J-Groove Welds at CRDM Penetrations Using Procedure ISI-ET-001," Rev. 0; WesDyne International, "Eddy Current Inspection of J-Groove Welds in Vessel Head Penetrations" and WesDyne Procedure WDI-ET-002; “IntraSpect Eddy Current Inspection of J-Groove Welds in Vessel Head Penetrations,” Revision 0, dated April 24, 2002. The non-proprietary versions of the two reports, along with copies of the proprietary versions of the reports, were submitted in APS' letter dated March 14, 2003. A copy of each non-proprietary report has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

By the affidavit dated February 5, 2003, executed by Norton L. Shapiro for Westinghouse Electric Company LLC (WEC), which is Attachment 3 to APS's letter dated March 14, 2003, the NRC was requested to withhold the information designated as proprietary information. The proprietary information is within brackets in the non-proprietary and proprietary versions of the WesDyne reports. The affidavit stated that the proprietary information (hereafter known as "The information") should be exempt from mandatory public disclosure for the following reasons:

1. The information sought to be withheld from public disclosure is owned and has been held in confidence by WEC. It consists [of] test and analysis results that qualify an ultrasonic test process for performing inspections of reactor vessel head penetrations.

2. The information consists of analyses or other similar data concerning a process, method or component, the application of which results in substantial competitive advantage to WEC.

3. The information is of a type customarily held in confidence by WEC and not customarily disclosed to the public.

4. The information is being transmitted to the Commission in confidence under the provisions of 10 CFR 2.790 with the understanding that it is to be received in confidence by the Commission.

5. The information, to the best of [Norton L. Shapiro's] knowledge and belief, is not available in public sources, and any disclosure to third parties has been made pursuant to regulatory provisions or proprietary agreements that provide for maintenance of the information in confidence.

6. Public disclosure of the information is likely to cause substantial harm to the competitive position of WEC because:

   a. A similar product or service is provided by major competitors of WEC.

   b. WEC has invested substantial funds and engineering resources in the development of this information. A competitor would have to undergo similar expense in generating equivalent information.

   c. The information consists of test and analysis results that qualify an ultrasonic test process for performing inspections of reactor vessel head penetrations, the application of which provides a competitive economic advantage. The availability of such information to competitors would enable them to design their product or service to better compete with WEC, take marketing or other actions to improve their product's position or impair the position of WEC's product, and avoid developing similar technical analysis in support of their processes, methods or apparatus.

   d. Significant research, development, engineering analytical, manufacturing, licensing, quality assurance and other costs and expenses must be included in pricing WEC's products and services. The ability of WEC's competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.

   e. Use of the information by competitors in the international marketplace would increase their ability to market comparable products or services by reducing the costs associated with their technology development. In addition, disclosure would have an adverse economic impact on WEC's potential for obtaining or maintaining foreign licenses.

We have reviewed your application and the information sought to be withheld from public disclosure in accordance with the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 10 CFR 2.790, and, on the basis of your statements in the affidavit, have determined that the information sought to be withheld contains proprietary commercial information and should, in accordance with 10 CFR 2.790(b)(5), be withheld from public disclosure. Therefore, the versions of the submitted information marked as 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 information. If the need arises, we may send copies of this information to our consultants working in this area. If this is done, 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 of this fact. You should also 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 this information. In all review situations, if the NRC makes a determination adverse to the above determination, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, please contact me at 301-415-1307, or through the internet at jnd@nrc.gov.

Sincerely,

/RA/

Jack Donohew, Senior Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. STN 50-528, STN 50-529,
and STN 50-530

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* See previous concurrence

ADAMS Accession No.: ML031350663 **NRR-106**

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