

June 17, 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 CORE PROTECTION CALCULATOR UPGRADE AMENDMENT  
REQUEST (TAC NOS. MB6726, MB6727, AND MB6728)

Dear Mr. Rickard:

By letter dated April 25, 2003, Arizona Public Service Company (APS) submitted the response to a request for additional information involving the human factors involved in the upgrade of the core protection calculator system for Palo Verde Nuclear Generating Station, Units 1, 2, and 3. Attachment 1 and 2 to that letter contained the proprietary and non-proprietary versions of the following Westinghouse Electric Company (WEC) topical report: WCAP-16076, "Requirements Phase Human Factors Review of the Common Q Phase 3 Core Protection Calculator System Project," Revision 0, dated March 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 March 28, 2003, executed by H. A. Sepp, Manager, Regulatory and Licensing Engineering, for WEC, which is Attachment 3 to APS's letter dated April 25, 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 reports. The affidavit stated that the proprietary information (hereafter known as "The information") should be exempt from mandatory public disclosure for the following reasons (taken verbatim from the affidavit):

- (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 ... 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 disadvantage over other companies.

and

- (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 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 version 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](mailto: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

cc: See next page

- (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 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 version 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.

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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](mailto: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.: ML031681309**

**NRR-084**

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|--------|-----------|-------------|------------|------------|-----------|
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| DATE   | 6/9/03    | 6/9/03      | 05/28/2003 | 06/06/2003 | 6/16/03   |

Palo Verde Generating Station, Units 1, 2, and 3

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