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July 1, 2003

MARK J. WETTERHAHN
(202) 371-5703
mwetterh@winston.com

John Kinneman
Chief, Branch 2
Division of Materials Safety
Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

2003 JUL -3 PM 1:44
RECEIVED
REGION I

070-01503

Re: Exchange of correspondence regarding
Westinghouse Electric Company LLC, License No. SNM-1460

Dear Mr. Kinnemann:

As counsel for Westinghouse Electric Company LLC ("Westinghouse"), I am enclosing for your information two pieces of correspondence between Westinghouse and Viacom Inc. ("Viacom") relating to another financial dispute between these two parties. This dispute has resulted in the initiation of arbitration by Viacom – the third arbitration between the parties. A panel has been appointed and a hearing date of January 12, 2004 has been set.

While Viacom's letter couches this dispute in terms of the decommissioning funding assurance for SNM-1460, the letter is, in Westinghouse's view, designed to force Westinghouse, notwithstanding the pending arbitration initiated by Viacom, to make substantial additional payments under a sublease pursuant to which Westinghouse uses certain facilities at the Science and Technology Center in Churchill, Pennsylvania ("STC").

Viacom is contractually responsible to Westinghouse for providing the totality of financial assurance to the NRC for SNM-1460. Westinghouse is, however, obligated to Viacom to fund in advance, through payments under the sublease, the cost to decommission the hot cell at STC used by Westinghouse. Westinghouse has confirmed that both the decommissioning cost for that portion of STC for which it is contractually responsible and the cost to remediate the

133360

NMSS/EGNI MATERIALS-002

WINSTON & STRAWN

John Kinneman
July 1, 2003
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remainder of the licensed portions of the STC, for which Viacom is responsible, are within the amount originally estimated by Viacom's predecessor, CBS Corporation. Westinghouse does not therefore believe that further actions are required at this time under the license and is not asking the NRC for any action.

For your information, we will share the results of the arbitration proceeding with you. If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Wetterhahn", with a long horizontal flourish extending to the right.

Mark J. Wetterhahn
Counsel for Westinghouse Electric Company LLC

Enclosures

1. June 5, 2003 letter to John Goossen from Richard K. Smith
2. July 1, 2003 letter to Michael McBride from Richard G. Murphy

cc: Jack R. Goldberg
Michael F. McBride
Martin G. Malsch
Document Control Desk

Pittsburgh, PA. 15222-1384

Richard K. Smith
Vice President - Environmental Remediation

Telephone: 412-642-3285
Facsimile: 412-642-3957
E-mail: Richard.Smith@viacom.com

JUN 06 2003

VIACOM

VIA AIRBORNE EXPRESS

June 5, 2003

Mr. John Goossen
Westinghouse Electric Company, LLC
Science & Technology Department
George Westinghouse Research & Technology Park
1340 Beulah Road, Bldg. 401 - 2nd Floor
Pittsburgh, PA 15235-5082

RE: Hot Cell Decommissioning Estimate and NRC

Dear John:

As you know, on March 10, 1999, the NRC approved the transfer of SNM-1460 from the former Westinghouse Electric Company (then a division of CBS Corporation) to Westinghouse Electric Company LLC ("Westinghouse"). SNM-1460 applies to certain activities at the Science and Technology Center ("STC") outside Pittsburgh, Pennsylvania, formerly a part of Westinghouse Electric Company's Energy Systems Business Unit. In approving the transfer, NRC made it clear that it held Westinghouse, as the licensee, fully responsible for compliance with NRC requirements, including requirements pertaining to decommissioning financial assurance, notwithstanding an agreement between CBS Corporation (now Viacom) and Westinghouse whereby the former would provide certain decommissioning financial assurance to the latter.

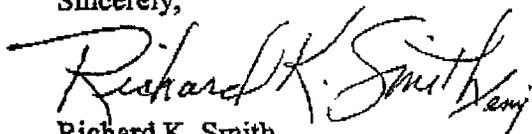
As you also know, Viacom currently believes the estimated cost for decommissioning of the STC will be about \$12.3 million, based on a study by Earth Sciences Consulting, Inc. that was completed in December, 2001. This contrasts sharply both with the initial estimate of \$4.7 million that was based on study completed some time before March 1997, and with Westinghouse's current estimate of \$4.4 million that is based on a more recent MOTA study.

Mr. John Goossen
June 5, 2003
Page 2

The differing estimates of the costs to decommission the STC and Westinghouse's and Viacom's respective obligations related thereto are the subject of a pending arbitration, and it may be some time before the matter is resolved. In the meantime, the U.S. Nuclear Regulatory Commission ("NRC") is relying on the early estimate of \$4.7 million as satisfaction of Westinghouse's obligation as the licensee to provide NRC with an estimate of decommissioning costs (e.g., 10 CFR § 30.35 (e)). To our knowledge, Westinghouse has not advised the NRC of Viacom's significantly larger estimate or of the current disagreement between Viacom and Westinghouse over what a new estimate should be, notwithstanding Westinghouse's obligation to adjust the estimate over the life of the facility for NRC compliance purposes.

Viacom believes Westinghouse should inform NRC promptly that, at the least, the original estimate of \$4.7 million is in dispute and that one knowledgeable party (Viacom, supported by Earth Sciences Consulting, Inc.) believes the cost will be as much as \$12.3 million. Once Westinghouse informs NRC, NRC would then be in a position to contact Westinghouse and Viacom for whatever follow-up action it deems appropriate, without the need for Viacom to bring this matter to NRC's attention.

Sincerely,



Richard K. Smith
Vice President - Environmental Remediation

cc: F. Ramsey Coates

RICHARD G. MURPHY, JR.
DIRECT DIAL: (202) 383-0635
Internet:rgmurphy@sablaw.com

July 1, 2003

BY FACSIMILE
HARD COPY TO FOLLOW

Michael F. McBride, Esq.
LeBoeuf, Lamb, Greene, & MacRae L.L.P.
1875 Connecticut Avenue, N.W.
Suite 1200
Washington, D.C. 20009-5728

Re: STC – Decontamination and Decommissioning Cost Estimates

Dear Mike:

As you may know, Rick Smith recently wrote to John Goossen of Westinghouse suggesting that Westinghouse has a duty to advise the Nuclear Regulatory Commission (“NRC”) of the pending dispute between our clients concerning their respective obligations relating to the funding of decontamination and decommissioning of NRC licensed facilities at the Science and Technology Center (“STC”). A copy of Mr. Smith’s June 5, 2003 letter to Mr. Goossen is enclosed. I am writing to you to respond to certain statements contained in Mr. Smith’s letter.

Westinghouse believes, on the basis of (among other things) a recent study performed by MOTA Corporation, a copy of which has been previously provided to you, that the appropriate estimate of the costs Viacom can be expected to incur in decontaminating and decommissioning the facilities covered by the SNM-1460 license will be less than the amount of financial assurance currently provided by Viacom. Westinghouse has identified major flaws in the Viacom-commissioned estimate that provides the basis for Viacom’s demand that the additional rent required under the sublease under which Westinghouse occupies certain facilities at STC be increased and has provided comments concerning those flaws to your client.

If an increase in the amount of decommissioning financial assurance were required, Viacom, not Westinghouse, would be the party responsible for posting the additional assurance. In any event, the question of which of the two estimates provides the appropriate basis for determining the annual amount of additional rent required of Westinghouse to amortize the cost of decommissioning the hot cell at STC will be determined by the panel of arbitrators that has agreed to hear the dispute next January.

Michael F. McBride, Esq.
July 1, 2003
Page 2

Under the terms of the Asset Purchase Agreement, Viacom, as successor to CBS, retains all decontamination and decommissioning liabilities with respect to STC. See APA § 2.3(a)(vi). CBS acknowledged that fact in Lou Briskman's letter to the NRC dated September 28, 1998, in which Mr. Briskman stated that "CBS retains financial responsibility for the cost of decommissioning and decontaminating the facilities at the Science and Technology Center associated with License No. SNM-1460 . . ." and further represented that "to the extent of such responsibility, for the life of the license, CBS will be financially responsible for decommissioning and will provide the decommissioning financial assurance under License No. SNM-1460 required by NRC regulations, as may be determined pursuant to such regulations from time to time." In short, in order to induce the NRC to approve transfer of the SNM-1460 license to Westinghouse, CBS represented that it would provide decommissioning financial assurance in whatever amount might be determined to be required until the license is retired.

On March 10, 1999, the NRC approved the transfer of the SNM-1460 license from CBS to Westinghouse. In the approval letter, the NRC stated that it would "hold the licensees responsible for all requirements and conditions of their respective licenses, including financial responsibility for decommissioning." However, the NRC also recognized "that CBS has a contractual agreement with the buyers to retain financial responsibility for decommissioning and/or decontaminating certain facilities associated with licenses SNM-770 (Waltz Mill Site) and SNM-1460 (Science and Technology Center)." Therefore, while noting that it would hold Westinghouse, as licensee, ultimately responsible for the decommissioning, the NRC acknowledged the fact that CBS (now Viacom) is the party that is in the first instance responsible for the cost of decommissioning and decontaminating the facilities at STC. It is, therefore, clear that if additional decommissioning financial assurance were required, Viacom, not Westinghouse, will be the party responsible for providing such additional financial assurance.

Westinghouse is confident that it is in compliance with all of its regulatory obligations with respect to STC. In order to keep the NRC fully informed, Westinghouse will provide a copy of Mr. Smith's June 5, 2003 letter, along with a copy of this letter, to the NRC.

Please call me if you have any questions.

Very truly yours,



Richard G. Murphy, Jr.

RGMjr/epb
Enclosure

cc: Martin G. Malsch, Esq.
Mark J. Wetterhahn, Esq.
F. Ramsey Coates, Esq.
Mr. John Goossen
Mr. A. Joseph Nardi

(FOR LFMS USE)
INFORMATION FROM LTS

BETWEEN:

License Fee Management Branch, ARM
and
Regional Licensing Sections

: Program Code: 22110
: Status Code: 0
: Fee Category: 3L 2C 1D 3B
: Exp. Date: 20080228
: Fee Comments: 3B ADDED 2/17/98
: Decom Fin Assur Req: Y
:.....

LICENSE FEE TRANSMITTAL

A. REGION I

1. APPLICATION ATTACHED

Applicant/Licensee: WESTINGHOUSE ELECTRIC COMPANY LLC
Received Date: 20030703
Docket No: 7001503
Control No.: 133360
License No.: SNM-1460
Action Type: Notifications

2. FEE ATTACHED

Amount: _____
Check No.: _____

3. COMMENTS

Signed M. A. Berkim
Date 7/9/2003

B. LICENSE FEE MANAGEMENT BRANCH (Check when milestone 03 is entered /__/))

1. Fee Category and Amount: _____

2. Correct Fee Paid. Application may be processed for:

Amendment _____
Renewal _____
License _____

3. OTHER _____

Signed _____
Date _____