

July 21, 2003

Mr. H. A. Sepp
Manager, Regulatory Compliance
and Plant Licensing
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. 2 (TAC NO. MB7274)

Dear Mr. Sepp:

By letter dated January 20, 2003, Entergy Nuclear Operations, Inc., (the licensee) requested that the U.S. Nuclear Regulatory Commission (NRC) review the small-break loss-of-coolant accident (LOCA) evaluation methodology for the Indian Point Nuclear Generating Unit No. 2. This methodology was described in Westinghouse Electric Company Report WCAP-14936, Revision 0, "Code Qualification Document for Best Estimate Small Break LOCA Analysis," dated August 2001. By letter dated June 20, 2003, Westinghouse agreed to loan the NRC staff a copy of the small-break LOCA version of its WCOBRA/TRAC Computer Code, on compact disc, to be used in support of the NRC staff's review of WCAP-14936.

With the June 20 letter, you submitted an application dated May 28, 2003, and an affidavit executed by you on May 20, 2003, requesting that the WCOBRA/TRAC Computer Code and the following related material be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790. You also stated that the computer code and related material was provided solely in accordance with the "Memorandum of Understanding between the U.S. Nuclear Regulatory Commission and Westinghouse Electric Company Regarding the Use of Westinghouse Proprietary Computer Codes," dated March 2003.

- a. WCOBRA/TRAC, small-break LOCA version, source code and executable code
- b. Indian Point No. 2 input data set
- c. WCOBRA/TRAC user's manual pages

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

- (a) The information sought to be withheld from public disclosure is owned and has been held in confidence by Westinghouse.
- (b) The information is of a type customarily held in confidence by Westinghouse and not customarily disclosed to the public. Westinghouse has a rational basis f

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.

- (c) 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.
- (d) 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.
- (e) 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.
- (f) Further this information has substantial commercial value as follows:
 - (1) Westinghouse can use this analysis capability of the WCOBRA/TRAC Computer Code to further enhance their license position over their competitors.
 - (2) Westinghouse plans to sell the use of similar information to its customers for purposes of demonstrating compliance with 10CFR50.46 Acceptance Criteria.

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 WCOBRA/TRAC Computer Code and related material, 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 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

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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, Sr. Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-247

cc: See next page

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*See previous concurrence

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Official Record Copy

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