

August 27, 2003

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

SUBJECT: AP1000 - REQUESTS FOR WITHHOLDING INFORMATION FROM PUBLIC  
DISCLOSURE (AW-03-1685 AND AW-03-1687)

Dear Mr. Sepp:

By application and affidavit, both executed by Mr. James W. Winters, dated August 7, 2003, and July 7, 2003, respectively, Westinghouse Electric Company (Westinghouse) requested that portions of the transmitted AP1000 draft safety evaluation report (DSER) open item 21.5-2 response, be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790. A nonproprietary copy of the proprietary material is available by contacting the Nuclear Regulatory Commission's (NRC's) Public Document Room and has been added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ADAMS Accession No. ML032230268). An apparent error was made in the dating of the affidavit described previously. Westinghouse addressed this error by resubmitting the responses to open item 21.5-2 in a subsequent letter dated August 13, 2003. This letter noted that the application and affidavit supercedes the enclosure to the aforementioned August 7, 2003, letter. Details of the August 13, 2003, application and affidavit follow.

By application made by Mr. Michael M. Corletti, and affidavit executed by Mr. James W. Winters, both dated August 13, 2003, Westinghouse requested that portions of the transmitted AP1000 DSER open item responses, be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790. A nonproprietary copy of the proprietary material is available by contacting the Nuclear Regulatory Commission's (NRC's) Public Document Room and has been added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ADAMS Accession No. ML032270388).

Both of the transmittals 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;
- (b) the information 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;

- (c) use of the information 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; and

The transmittal associated with the affidavit identified as AW-03-1687, dated August 13, 2003, also included the following reason that the submitted information should be considered exempt from mandatory public disclosure:

- (e) the information reveals aspects of past, present, or future Westinghouse or customer funded development plans and programs of potential commercial value to Westinghouse.

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 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 document. 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 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 (FOIA) 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.

Please contact one of the following members of the AP1000 project management team if you have any questions or comments concerning this matter: Mr. John Segala (Lead Project Manager) at (301) 415-1858, [jps1@nrc.gov](mailto:jps1@nrc.gov); Mr. Joseph Colaccino at (301) 415-2753, [jxc1@nrc.gov](mailto:jxc1@nrc.gov); or Ms. Joelle Starefos at (301) 415-8488, [jls1@nrc.gov](mailto:jls1@nrc.gov).

Sincerely,

**/RA/**

Joelle L. Starefos, Project Manager  
New Reactors Section  
New, Research and Test Reactors Program  
Division of Regulatory Improvement Programs  
Office of Nuclear Reactor Regulation

Docket No. 52-006

cc: See next page

- (c) use of the information 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; and

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Sincerely,

/RA/

Joelle L. Starefos, Project Manager  
New Reactors Section  
New, Research and Test Reactors Program  
Division of Regulatory Improvement Programs  
Office of Nuclear Reactor Regulation

Docket No. 52-006

cc: See next page

Distribution: See next page

ADAMS ACCESSION NUMBER: ML032240269

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NAME	JStarefos	JWermiel	DHassell	LDudes-JFW for:
DATE	8/19/2003	8/20/2003	8/25/2003	8/26/2003

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Distribution for Request For Withholding From Public Disclosure Letter dated August 27, 2003

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