

SEP 08 2003



LR-N03-0388

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

**GE14 AND SVEA-96+ THERMAL-HYDRAULIC COMPATIBILITY REPORT
HOPE CREEK GENERATING STATION
FACILITY OPERATING LICENSE NPF-57
DOCKET NO. 50-354**

Reference: GNF-A Proprietary Report, NEDC-33107P, "GEXL80 Correlation for SVEA96+ Fuel," dated September 2003

PSEG Nuclear LLC (PSEG) is providing the attached report in support of the NRC's review of the Reference submittal. The report provides independent verification of the conclusions reached by Global Nuclear Fuels (GNF) that introduction of the GE14 fuel type will not adversely affect the performance of the SVEA-96+ fuel, and that the GE14 and SVEA-96+ fuel types are thermal- hydraulically compatible as evaluated in the Hope Creek core.

Attachment 1 contains information which Westinghouse Electric Company LLC (Westinghouse) considers to be proprietary. Westinghouse requests that the proprietary information in Attachment 1 be withheld from public disclosure in accordance with 10 CFR 2.790. An affidavit in support of this request is provided in Attachment 2.

Attachment 1 also contains information which GNF considers to be proprietary. GNF requests that the proprietary information in Attachment 1 be withheld from public disclosure in accordance with 10 CFR 2.790. An affidavit in support of this request is provided in Attachment 3.

PSEG will provide a non-proprietary version of Attachment 1 no later than September 19, 2003.

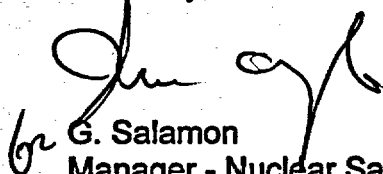
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This letter forwards proprietary information in accordance with 10CFR 2.790. The balance of this letter may be considered non-proprietary upon removal of Attachment 1.

SEP 08 2003

Should you have any questions regarding this matter, please contact Mr. Paul Duke at 856-339-1466.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Salamon", is written over the printed name.

G. Salamon
Manager - Nuclear Safety and Licensing

Attachments (3)

C Mr. H. J. Miller, Administrator - Region I
U. S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

U. S. Nuclear Regulatory Commission
ATTN: Mr. R. Ennis, Licensing Project Manager - Hope Creek
Mail Stop 08B3
Washington, DC 20555-0001

USNRC Senior Resident Inspector - Hope Creek (X24)

Mr. K. Tosch, Manager IV (without Attachment 1)
Bureau of Nuclear Engineering
PO Box 415
Trenton, NJ 08625

H. A. Sepp, Manager of Regulatory Compliance and Plant Licensing (without
Attachment 1)
Westinghouse Electric Company,
P.O. Box 355
Pittsburgh, PA 15230-0355

Margaret Harding, Manager (without Attachment 1)
Fuel Engineering Services
Global Nuclear Fuel
PO Box 780
Wilmington, NC 28402-0780

Westinghouse Request for Withholding Attachment 1 from Public Disclosure



Westinghouse Electric Company
Nuclear Services
P.O. Box 355
Pittsburgh, Pennsylvania 15230-0355
USA

U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555-0001

Direct tel: (412) 374-5282
Direct fax: (412) 374-4011
e-mail: fasnacjw@westinghouse.com

Our ref: CAW-03-1698

September 8, 2003

**APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE**

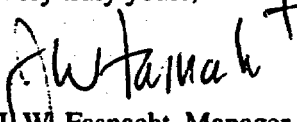
Subject: Letter LR-N03-0386, G. Salamon to NRC Document Control Desk, "SVEA-96+ MODELING DIMENSIONS, HOPE CREEK GENERATING STATION, FACILITY OPERATING LICENSE NPF-57, DOCKET NO. 50-354," dated September 8, 2003 (Proprietary) and Letter LR-N03-0388, G. Salamon to NRC Document Control Desk, "GE14 and SVEA-96+ THERMAL-HYDRAULIC COMPATIBILITY REPORT, HOPE CREEK GENERATING STATION, FACILITY OPERATING LICENSE NPF-57, DOCKET NO. 50-354," dated September 8, 2003 (Proprietary)

The proprietary information for which withholding is being requested in the above-referenced report is further identified in Affidavit CAW-03-1698 signed by the owner of the proprietary information, Westinghouse Electric Company LLC. The affidavit, which accompanies this letter, sets forth the basis on which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in paragraph (b)(4) of 10 CFR Section 2.790 of the Commission's regulations.

Accordingly, this letter authorizes the utilization of the accompanying affidavit by PSEG Nuclear, LLC

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-03-1698 and should be addressed to the undersigned.

Very truly yours,


J. W. Fasnacht, Manager
Major Programs Group

Enclosures

cc: J. Dyer
D. Holland
B. Benney
E. Peyton

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared J. W. Fasnacht, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Westinghouse Electric Company LLC ("Westinghouse"), and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:

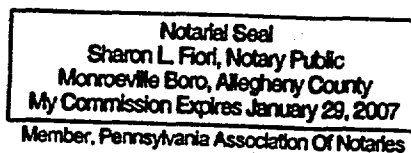
JW Fasnacht
J. W. Fasnacht, Manager

Major Programs Group

Sworn to and subscribed
before me this 8th day
of September, 2003

Sharon L. Fiori

Notary Public



- (1) I am Manager, Major Programs Group, in Nuclear Services, Westinghouse Electric Company LLC ("Westinghouse"), and as such, I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with nuclear power plant licensing and rule making proceedings, and am authorized to apply for its withholding on behalf of the Westinghouse Electric Company LLC.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.790 of the Commission's regulations and in conjunction with the Westinghouse application for withholding accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by the Westinghouse Electric Company LLC in designating information as a trade secret, privileged or as confidential commercial or financial information.
- (4) Pursuant to the provisions of paragraph (b)(4) of Section 2.790 of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.
 - (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 and not customarily disclosed to the public. Westinghouse has a rational basis 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.

Under that system, information is held in confidence if it falls in one or more of several types, 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 advantage over other companies.

- (b) 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.
- (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.
- (d) It reveals cost or price information, production capacities, budget levels, or commercial strategies of Westinghouse, its customers or suppliers.
- (e) It reveals aspects of past, present, or future Westinghouse or customer funded development plans and programs of potential commercial value to Westinghouse.
- (f) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the Westinghouse system which include the following:

- (a) The use of such information by Westinghouse gives Westinghouse a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the Westinghouse competitive position.
- (b) It is information that is marketable in many ways. The extent to which such information is available to competitors diminishes the Westinghouse ability to sell products and services involving the use of the information.
- (c) Use by our competitor would put Westinghouse at a competitive disadvantage by reducing his expenditure of resources at our expense.

- (d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving Westinghouse of a competitive advantage.
 - (e) Unrestricted disclosure would jeopardize the position of prominence of Westinghouse in the world market, and thereby give a market advantage to the competition of those countries.
 - (f) The Westinghouse capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.
- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.790, it is to be received in confidence by the Commission.
- (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
- (v) The proprietary information sought to be withheld in this submittal is that which is appropriately marked in "Table 2.3 of GEXL80 Correlation for SVEA-96+ Fuel" and input to the "Thermal Hydraulic Compatibility Report" (Proprietary), for PSEG Nuclear LLC, being transmitted by the PSEG Nuclear LLC letter and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted for use by Westinghouse Electric Company LLC for Hope Creek is expected to be applicable for other licensee submittals in response to certain NRC requirements for justification of GE14 fuel transition

This information is part of that which will enable Westinghouse to:

- (a) Determine the correlation for SVEA-96+ fuel.

(b) Determine Thermal Hydraulic Compatibility.

Further this information has substantial commercial value as follows:

- (a) Westinghouse plans to sell the use of similar information to its customers for purposes of using SVEA-96+ fuel.
- (b) Westinghouse can sell support and defense of licensing support.
- (c) The information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by Westinghouse.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Westinghouse because it would enhance the ability of competitors to provide similar calculations and data and licensing defense services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

The development of the technology described in part by the information is the result of applying the results of many years of experience in an intensive Westinghouse effort and the expenditure of a considerable sum of money.

In order for competitors of Westinghouse to duplicate this information, similar technical programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended.

Further the deponent sayeth not.

**Global Nuclear Fuels Request for Withholding Attachment 1
from Public Disclosure**

Affidavit

I, Margaret E. Harding, state as follows:

- (1) I am Manager, Fuel Engineering Services, Global Nuclear Fuel – Americas, L.L.C. ("GNF-A") and have been delegated the function of reviewing the information described in paragraph (2) which is sought to be withheld, and have been authorized to apply for its withholding.
- (2) The information sought to be withheld is contained in the attachment, "GE14 and SVEA-96+ Thermal Hydraulic Compatibility Report," NFS-0233, September 8, 2003. GNF proprietary information is indicated by enclosing it in double brackets. In each case, the superscript notation ⁽³⁾ refers to Paragraph (3) of this affidavit, which provides the basis for the proprietary determination.
- (3) In making this application for withholding of proprietary information of which it is the owner or licensee, GNF-A relies upon the exemption from disclosure set forth in the Freedom of Information Act ("FOIA"), 5 USC Sec. 552(b)(4), and the Trade Secrets Act, 18 USC Sec. 1905, and NRC regulations 10 CFR 9.17(a)(4) and 2.790(a)(4) for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (Exemption 4). The material for which exemption from disclosure is here sought is all "confidential commercial information," and some portions also qualify under the narrower definition of "trade secret," within the meanings assigned to those terms for purposes of FOIA Exemption 4 in, respectively, Critical Mass Energy Project v. Nuclear Regulatory Commission, 975F2d871 (DC Cir. 1992), and Public Citizen Health Research Group v. FDA, 704F2d1280 (DC Cir. 1983).
- (4) Some examples of categories of information which fit into the definition of proprietary information are:
 - a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by GNF-A's competitors without license from GNF-A constitutes a competitive economic advantage over other companies;
 - b. Information which, if used 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 of a similar product;
 - c. Information which reveals cost or price information, production capacities, budget levels, or commercial strategies of GNF-A, its customers, or its suppliers;
 - d. Information which reveals aspects of past, present, or future GNF-A customer-funded development plans and programs, of potential commercial value to GNF-A;
 - e. Information which discloses patentable subject matter for which it may be desirable to obtain patent protection.

Affidavit

The information sought to be withheld is considered to be proprietary for the reasons set forth in paragraphs (4)a. and (4)b., above.

- (5) To address the 10 CFR 2.790 (b) (4), the information sought to be withheld is being submitted to NRC in confidence. The information is of a sort customarily held in confidence by GNF-A, and is in fact so held. Its initial designation as proprietary information, and the subsequent steps taken to prevent its unauthorized disclosure, are as set forth in (6) and (7) following. The information sought to be withheld has, to the best of my knowledge and belief, consistently been held in confidence by GNF-A, no public disclosure has been made, and it is not available in public sources. All disclosures to third parties including any required transmittals to NRC, have been made, or must be made, pursuant to regulatory provisions or proprietary agreements which provide for maintenance of the information in confidence.
- (6) Initial approval of proprietary treatment of a document is made by the manager of the originating component, the person most likely to be acquainted with the value and sensitivity of the information in relation to industry knowledge, or subject to the terms under which it was licensed to GNF-A. Access to such documents within GNF-A is limited on a "need to know" basis.
- (7) The procedure for approval of external release of such a document typically requires review by the staff manager, project manager, principal scientist or other equivalent authority, by the manager of the cognizant marketing function (or his delegate), and by the Legal Operation, for technical content, competitive effect, and determination of the accuracy of the proprietary designation. Disclosures outside GNF-A are limited to regulatory bodies, customers, and potential customers, and their agents, suppliers, and licensees, and others with a legitimate need for the information, and then only in accordance with appropriate regulatory provisions or proprietary agreements.
- (8) The information identified in paragraph (2) is classified as proprietary because it contains details of GNF-A's fuel design and licensing methodology.

The development of the methods used in these analyses, along with the testing, development and approval of the supporting methodology was achieved at a significant cost, on the order of several million dollars, to GNF-A or its licensor.

- (9) Public disclosure of the information sought to be withheld is likely to cause substantial harm to GNF-A's competitive position and foreclose or reduce the availability of profit-making opportunities. The fuel design and licensing methodology is part of GNF-A's comprehensive BWR safety and technology base, and its commercial value extends beyond the original development cost. The value of the technology base goes beyond the extensive physical database and analytical methodology and includes development of the expertise to determine and apply the appropriate evaluation process. In addition, the technology base includes the value derived from providing analyses done with NRC-approved methods.

The research, development, engineering, analytical, and NRC review costs comprise a substantial investment of time and money by GNF-A or its licensor.

Affidavit

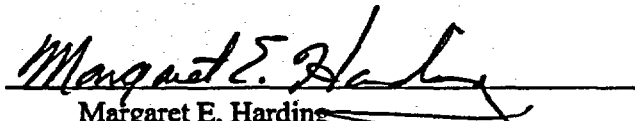
The precise value of the expertise to devise an evaluation process and apply the correct analytical methodology is difficult to quantify, but it clearly is substantial.

GNF-A's competitive advantage will be lost if its competitors are able to use the results of the GNF-A experience to normalize or verify their own process or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar conclusions.

The value of this information to GNF-A would be lost if the information were disclosed to the public. Making such information available to competitors without their having been required to undertake a similar expenditure of resources would unfairly provide competitors with a windfall, and deprive GNF-A of the opportunity to exercise its competitive advantage to seek an adequate return on its large investment in developing and obtaining these very valuable analytical tools.

I declare under penalty of perjury that the foregoing affidavit and the matters stated therein are true and correct to the best of my knowledge, information, and belief.

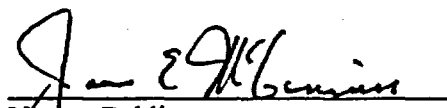
Executed at Wilmington, North Carolina, this 8th day of September, 2003.


Margaret E. Harding
Global Nuclear Fuel - Americas, LLC

North Carolina
New Hanover County

I, James E. McGinness, a Notary Public for said County and State, do hereby certify that Margaret E. Harding personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal, this the 8th day of September, 2003.


Notary Public

JAMES E. MCGINNESS
Notary Public, State of North Carolina
New Hanover County
My Commission Expires 1/23/2006