

November 7, 2003

Mr. Ian C. Rickard, Licensing Project Manager
Regulatory Compliance and Plant Licensing
Westinghouse Electric Company
P.O. Box 500
Windsor, CT 06095-0500

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(TAC NO. MB1365)

Dear Mr. Rickard:

By letter dated June 25, 2002, Westinghouse Electric Company (WEC) submitted an affidavit dated June 25, 2002, executed by you, requesting that information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790:

WCAP-15836-P, Revision 0, "Fuel Rod Design Methods for Boiling Water Reactors – Supplement 1"

A non-proprietary version of the document has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management Systems Publicly Available Records System (ADAMS PARS) Library.

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

- i. The information sought to be withheld from public disclosure is owned and has been held in confidence by WEC.
- iii. The information is of a type customarily held in confidence by WEC and not customarily disclosed to the public.
 - a. A similar product is manufactured and sold by major competitors of WEC.
 - b. WEC invested substantial funds and engineering resources in the development of this information. A competitor would have to undergo similar expense in generating equivalent information.
 - c. The information consists of enhanced analysis methodologies for the design and evaluation of BWR fuel, the application of which provides a competitive economic advantage. The availability of

such information to competitors would enable them to design their product to better compete with WEC, take marketing or other actions to improve their product's position or impair the position of WEC's product, and avoid developing similar technical analysis in support of their processes, methods or apparatus.

- d. In pricing WEC's products and services, significant research, development, engineering, analytical, manufacturing, licensing, quality assurance and other costs and expenses must be included. The ability of WEC's competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.
- e. Use of the information by competitors in the international marketplace would increase their ability to market a competing product, reducing the costs associated with their technology development.

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, WCAP-15836-P, Revision 0, "Fuel Rod Design Methods for Boiling Water Reactors – Supplement 1," 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 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.

I. Rickard

- 3 -

We apologize for the delay in the processing of the withholding determination for this topical report. If you have any questions regarding this matter, I may be reached at (301) 415-3764.

Sincerely,

/RAI

Brian Benney, Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Project No. 700

cc:

Mr. Gordon Bischoff, Manager
Owners Group Program Management Office
Westinghouse Electric Company
P.O. Box 355
Pittsburgh, PA 15230-0355

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

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Mr. H. A. Sepp, Manager
Regulatory Compliance and Plant Licensing
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ACCESSION NO.: ML033140540

NRR-084

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