

January 12, 2004

Mr. John S. Galembush, Acting Manager  
Regulatory Compliance and Plant Licensing  
Westinghouse Electric Company  
P.O. Box 355  
Pittsburgh, PA 15230-0355

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
(AW-03-1749) (TAC NO. MB1365)

Dear Mr. Galembush:

By letter dated December 4, 2003, Westinghouse Electric Company submitted an affidavit dated December 4, 2003, executed by you, requesting that the 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:

Westinghouse Semi-Annual Fuel Performance Update Meeting (Slide  
Presentation of December 9-10, 2003)

By letter dated December 2, 2003, the Nuclear Regulatory Commission (NRC) staff had approved the withholding of the draft presentation slides.

A nonproprietary copy of this document has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

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 Westinghouse.
- (ii) The information is of a type customarily held in confidence by Westinghouse and not customarily disclosed to the public.
  - (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 of 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.

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 information contained in the document entitled "Westinghouse Semi-Annual Fuel Performance Update Meeting (Slide Presentation of December 9-10, 2003)," 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.

If you have any questions regarding this matter, I may be reached at (301) 415-3764.

Sincerely,

***/RA/***

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 Project Management Office  
Westinghouse Electric Company  
P.O. Box 355  
Pittsburgh, PA 15230-0355

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Brian Benney, Project Manager, Section 2  
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Project No. 700

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

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**\*For previous concurrences see attached ORC**

**ADAMS ACCESSION NO.: ML040130397**

**NRR-084**

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| DATE   | 1/12/04   | 1/9/04      | 1/5/04      | 1/8/04 | 1/12/04   |