

March 5, 2004

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

SUBJECT: AP1000 - REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE (AW-04-1766)

Dear Mr. Sepp:

By application made by Mr. R. P. Vijuk, and affidavit executed by Mr. James W. Winters, both dated January 9, 2004, Westinghouse Electric Company (Westinghouse) requested that portions of the transmitted AP1000 draft safety evaluation report (DSER) open items 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. ML040220575).

The affidavit 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;
- (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.

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.

H. Sepp

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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; Mr. Joseph Colaccino at (301) 415-2753, jxc1@nrc.gov; or me at (301) 415-1313, sdb1@nrc.gov.

Sincerely,

/RA/

Steven D. Bloom, 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

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/RA/

Steven D. Bloom, Project Manager
New Reactors Section
New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

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AP 1000

cc:

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