

March 17, 2004

Mr. Christopher M. Crane
President and Chief Nuclear Officer
AmerGen Energy Company, LLC
4300 Winfield Road
Warrenville, IL 60555

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE, OYSTER CREEK NUCLEAR GENERATING STATION
(TAC NOS. MB9636, MB9637, MB9638, AND MB9639)

Dear Mr. Crane:

By your letter dated February 18, 2004, and affidavit dated February 13, 2004, executed by Mr. Ian C. Rickard of Westinghouse Electric Company, LLC, Mr. M. P. Gallagher submitted supplemental information to a letter dated June 12, 2003, requesting relief from certain requirements for the inservice inspection program. Mr. Gallagher requested that a diagram identified as E 232-587 in the February 18, 2004, letter be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390. A non-proprietary copy of this diagram was also submitted and 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:

- (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 or potential commercial value to Westinghouse.
- (f) It contains patentable ideas, for which patent protection may be desirable.

C. M. Crane

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We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390, and on the basis of your statements, we 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 2.390(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 301-415-1451.

Sincerely,

\RA

Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-219

cc: See next page

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Peter S. Tam, Senior Project Manager, Section 1
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

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cc: See next page

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PDI-1 Reading File

OGC

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Accession Number: **ML040770150**

OFFICE	PDI-1\PM	PDI-1\LA	OGC	PDI-1\SC
NAME	PTam	SLittle	JHeck	RLaufer
DATE	3/11/04	3/11/04	3/15/04	3/17/04

OFFICIAL RECORD COPY

Oyster Creek Nuclear Generating Station

cc:

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Oyster Creek Nuclear Generating Station

cc:

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