

April 27, 2004

Mr. James A. Gresham, 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
(CAW-03-1764) (TAC NOS. MC1845 AND MC1846)

Dear Mr. Gresham:

By letter dated January 21, 2004, TXU Energy, the licensee for the Comanche Peak Steam Electric Station, Units 1 and 2, submitted an affidavit dated January 6, 2004, executed by J. S. Galembush, Acting Manager, Regulatory Compliance and Plant Licensing, requesting that the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790:

Topical Report Applicability Determination

This document is part of TXU Energy's application for amendment for the Comanche Peak Steam Electric Station, Units 1 and 2 to revise their technical specifications to adopt completion time, test bypass time, and surveillance frequency changes that have approved by the Nuclear Regulatory Commission (NRC) in WCAP-14333-P-A, Revision 1, "Probabilistic Risk Analysis of the RPS and ESFAS Test Times and Completion Times," October 1998 and WCAP-15376-P-A, Revision 1, "Risk-Informed Assessment of the RTS and ESFAS Surveillance Test Intervals and Reactor Trip Breaker Test and Completion Times," March 2003.

A nonproprietary copy of the document has been placed in the 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.

- (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.

On February 13, 2004, certain revisions of the NRC's regulations went into effect that renumbered 10 CFR 2.790 as 10 CFR 2.390. 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, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the information in the document entitled "Topical Report Applicability Determination," 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) 415-1307.

Sincerely,

/RA/

Jack Donohew, Senior Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-445 and 50-446

cc: See next page

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NAME	JDonohew	EPeyton:esp	EMarinos	RGramm
DATE	4/23/04	4/22/04	4/26/04	4/26/04

Comanche Peak Steam Electric Station

cc:

Senior Resident Inspector
U.S. Nuclear Regulatory Commission
P. O. Box 2159
Glen Rose, TX 76403-2159

Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011

Mr. Fred W. Madden
Regulatory Affairs Manager
TXU Generation Company LP
P. O. Box 1002
Glen Rose, TX 76043

George L. Edgar, Esq.
Morgan Lewis
1111 Pennsylvania Avenue, NW
Washington, DC 20004

County Judge
P. O. Box 851
Glen Rose, TX 76043

Environmental and Natural
Resources Policy Director
Office of the Governor
P. O. Box 12428
Austin, TX 78711-3189

Mr. Richard A. Ratliff, Chief
Bureau of Radiation Control
Texas Department of Health
1100 West 49th Street
Austin, TX 78756-3189

Mr. Brian Almon
Public Utility Commission
William B. Travis Building
P. O. Box 13326
1701 North Congress Avenue
Austin, TX 78701-3326

Ms. Susan M. Jablonski
Office of Permitting, Remediation
and Registration
Texas Commission on Environmental
Quality
MC-122
P. O. Box 13087
Austin, TX 78711-3087

Terry Parks, Chief Inspector
Texas Department of Licensing
and Regulation
Boiler Program
P. O. Box 12157
Austin, TX 78711