

May 18, 2004

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

SUBJECT: AP1000 - REQUESTS FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE (AW-04-1774)

Dear Mr. Sepp:

By letter dated January 15, 2004, from Mr. R. P. Vijuk, Manager, Passive Plant Engineering, AP600 & AP1000 Projects, Westinghouse Electric Company (Westinghouse), and supporting affidavit executed by Mr. James W. Winters, Manager, Passive Plant Projects & Development, Nuclear Power Plants Business Unit, Westinghouse requested that portions of the transmitted AP1000 draft safety evaluation report (DSER) open item responses, be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390. A nonproprietary copy of the January 15, 2004, transmission 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. ML040210416).

The transmittal 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) the information 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) 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.

In accordance with the requirements of 10 CFR 2.390 (formerly 2.790), we have reviewed your application and material you designated as proprietary. On the basis of our review and your statements, we have decided that the information you marked as proprietary will be withheld from public disclosure. However, withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned (including NRC employees or contractors who have a need to know) to inspect the information withheld from public disclosure. If the need

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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.

Finally, as you may be aware, the text of 10 CFR 2.790 was amended by the NRC in June, 2003. In addition, the section number was changed from 2.790 to 2.390 in February of this year.

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

H. Sepp

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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

Distribution: See next page

ADAMS ACCESSION NUMBER: ML041340501

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Distribution for Request For Withholding From Public Disclosure Letter dated May 18, 2004

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