Pacific Gas and
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David H. Oatley
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June 4, 2004

PG&E Letter DCL-04-066

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

Docket No. 50-275, OL-DPR-80
Docket No. 50-323, OL-DPR-82
Diablo Canyon Units 1 and 2
Response to NRC Request for Additional Information Regarding License Amendment Request 03-12, "Revision to Technical Specifications 3.3.1, 'RTS Instrumentation,' and 3.3.2, 'ESFAS Instrumentation'"

Dear Commissioners and Staff:

Pacific Gas and Electric (PG&E) Letter DCL-03-111, dated September 12, 2003, submitted License Amendment Request (LAR) 03-12, "Revision to Technical Specifications 3.3.1, 'RTS Instrumentation,' and 3.3.2, 'ESFAS Instrumentation.'" LAR 03-12 would revise Technical Specification (TS) 3.3.1, "Reactor Trip System (RTS) Instrumentation," and TS 3.3.2, "Engineered Safety Feature Actuation System (ESFAS) Instrumentation," to change the current steam generator narrow range water level-low low setpoints from a greater than or equal to 7.0 percent allowable value and a 7.2 percent nominal value, to a greater than or equal to 14.8 percent allowable value and a 15.0 percent nominal value. These changes are needed to correct nonconservative TS setpoints that were reported in Licensee Event Report 1-2002-001-00, "Technical Specification Violation Due to Nonconservative Steam Generator Narrow Range Water Level Instrumentation," submitted by PG&E Letter DCL-02-043, dated April 15, 2002.

On December 2, 2003, the NRC staff requested additional information required to complete their review of LAR 03-12. PG&E's responses to the staff's questions were provided in PG&E Letter DCL-04-049 dated April 23, 2004. On April 28 and April 30, 2004, the NRC staff requested responses to four additional questions. PG&E's responses to the staff's questions are provided in Enclosure 1.

Enclosure 1 contains information that is proprietary to Westinghouse. Accordingly, Enclosure 2 includes a Westinghouse authorization letter, CAW-04-1846, an accompanying affidavit, a Proprietary Information Notice, and a Copyright Notice. The affidavit is signed by Westinghouse, the owner of the information. The affidavit sets forth the basis on which the Westinghouse proprietary information contained in Enclosure 1 may be withheld from public disclosure by the Commission, and it

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addresses with specificity the considerations listed in paragraph (b)(4) of 10 CFR 2.390 of the Commission's regulations. PG&E requests that the Westinghouse proprietary information be withheld from public disclosure in accordance with 10 CFR 2.390.

The responses provided in this submittal do not affect the results of the technical evaluation or the no significant hazards consideration determination previously transmitted in PG&E Letter DCL-03-111.

If you have any questions or require additional information, please contact Stan Ketelsen at (805) 545-4720.

Sincerely,

David H. Oatley
Vice President and General Manager - Diablo Canyon

jer/3664
Enclosures
cc: Edgar Bailey, DHS
Bruce S. Mallett
David L. Proulx
Diablo Distribution
cc/enc: Girija S. Shukla

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of PACIFIC GAS AND ELECTRIC COMPANY	)	Docket No. 50-275 Facility Operating License No. DPR-80
Diablo Canyon Power Plant Units 1 and 2	)	Docket No. 50-323 Facility Operating License No. DPR-82

AFFIDAVIT

David H. Oatley, of lawful age, first being duly sworn upon oath states that he is Vice President and General Manager - Diablo Canyon of Pacific Gas and Electric Company; that he has executed this response to the NRC request for additional information regarding License Amendment Request 03-12 on behalf of said company with full power and authority to do so; that he is familiar with the content thereof; and that the facts stated therein are true and correct to the best of his knowledge, information, and belief.

David H. Oatley
Vice President and General Manager - Diablo Canyon

Subscribed and sworn to before me this 4th day of June 2004.

Notary Public
County of San Luis Obispo
State of California

SANDRA EATHERLY
Commission # 1425568
Notary Public - California
San Luis Obispo County
My Comm. Expires Jul 18, 2007

Westinghouse Authorization Letter, CAW-04-1846
Affidavit
Proprietary Information Notice
Copyright Notice

Westinghouse

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Our ref: CAW-04-1846

June 1, 2004

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Subject: PG&E Response to NRC Request for Additional Information Regarding License Amendment Request 03-12, "Revision to Technical Specifications 3.3.1, "RTS Instrumentation" and 3.3.2, "ESFAS Instrumentation"

The proprietary information for which withholding is being requested in the above-referenced report is further identified in Affidavit CAW-04-1846 signed by the owner of the proprietary information, Westinghouse Electric Company LLC. The affidavit, which accompanies this letter, sets forth the basis on which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in paragraph (b)(4) of 10 CFR Section 2.390 of the Commission's regulations.

Accordingly, this letter authorizes the utilization of the accompanying affidavit by Pacific Gas and Electric.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-04-1846, and should be addressed to J. A. Gresham, Manager, Regulatory Compliance and Plant Licensing, Westinghouse Electric Company LLC, P.O. Box 355, Pittsburgh, Pennsylvania 15230-0355.

Very truly yours,

J. A. Gresham, Manager
Regulatory Compliance and Plant Licensing

Enclosures

cc: W. Macon
E. Peyton

bcc: J. A. Gresham (ECE 4-7A) 1L
R. Bastien, 1L, 1A (Nivelles, Belgium)
C. Brinkman, 1L, 1A (Westinghouse Electric Co., 12300 Twinbrook Parkway, Suite 330, Rockville, MD 20852)
RCPL Administrative Aide (ECE 4-7A) 1L, 1A (letter and affidavit only)

CAW-04-1846

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

ss

COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared J. A. Gresham, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Westinghouse Electric Company LLC (Westinghouse), and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:

PATRICIA L. CROWN
COMMONWEALTH OF PENNSYLVANIA
NOTARY PUBLIC

J. A. Gresham, Manager
Regulatory Compliance and Plant Licensing

Sworn to and subscribed
before me this 1st day
of June, 2004

Patricia L Crown
Notary Public

Notarial Seal
Patricia L. Crown, Notary Public
Monroeville Boro, Allegheny County
My Commission Expires Feb. 7, 2005
Member, Pennsylvania Association of Notaries

(1) I am Manager, Regulatory Compliance and Plant Licensing, in Nuclear Services, Westinghouse Electric Company LLC (Westinghouse), and as such, I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with nuclear power plant licensing and rule making proceedings, and am authorized to apply for its withholding on behalf of Westinghouse.

(2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.390 of the Commission's regulations and in conjunction with the Westinghouse "Application for Withholding" accompanying this Affidavit.

(3) I have personal knowledge of the criteria and procedures utilized by Westinghouse in designating information as a trade secret, privileged or as confidential commercial or financial information.

(4) Pursuant to the provisions of paragraph (b)(4) of Section 2.390 of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.

(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. Westinghouse has a rational basis for determining the types of information customarily held in confidence by it and, in that connection, utilizes a system to determine when and whether to hold certain types of information in confidence. The application of that system and the substance of that system constitutes Westinghouse policy and provides the rational basis required.

Under that system, information is held in confidence if it falls in one or more of several types, the release of which might result in the loss of an existing or potential competitive advantage, as follows:

(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 of potential commercial value to Westinghouse.

(f) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the Westinghouse system which include the following:

(a) The use of such information by Westinghouse gives Westinghouse a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the Westinghouse competitive position.

(b) It is information that is marketable in many ways. The extent to which such information is available to competitors diminishes the Westinghouse ability to sell products and services involving the use of the information.

(c) Use by our competitor would put Westinghouse at a competitive disadvantage by reducing his expenditure of resources at our expense.

(d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving Westinghouse of a competitive advantage.

(e) Unrestricted disclosure would jeopardize the position of prominence of Westinghouse in the world market, and thereby give a market advantage to the competition of those countries.

(f) The Westinghouse capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.

(iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.390, it is to be received in confidence by the Commission.

(iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.

(v) The proprietary information sought to be withheld in this submittal is that which is appropriately marked in PG&E Response to NRC Request for Additional Information Regarding License Amendment Request 03-12, "Revision to Technical Specifications 3.3.1, 'RTS Instrumentation,' and 3.3.2, 'ESFAS Instrumentation.'," for Diablo Canyon Units 1 and 2, being transmitted by Pacific Gas & Electric letter and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk, Attention Mr. Samuel J. Collins. The proprietary information as submitted for use by Westinghouse Electric Company LLC for Diablo Canyon Units 1 and 2 is expected to be applicable for other submittals in response to certain NRC requests for information on steam generator water level.

This information is part of that which will enable Westinghouse to:

(a) Justify the plant-specific calculations for steam generator water level.

(b) Assist the customer to respond to NRC requests for information.

Further this information has substantial commercial value as follows:

(a) Westinghouse plans to sell the use of similar information to its customers for purposes of meeting NRC requirements for licensing documentation.

(b) Westinghouse can sell support and justification for the use of plant-specific steam generator water level calculations.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Westinghouse because it would enhance the ability of competitors to provide similar calculations, evaluations, analyses and licensing defense services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

The development of the technology described in part by the information is the result of applying the results of many years of experience in an intensive Westinghouse effort and the expenditure of a considerable sum of money.

In order for competitors of Westinghouse to duplicate this information, similar technical programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended.

Further the deponent sayeth not.

PROPRIETARY INFORMATION NOTICE

Transmitted herewith are proprietary and/or non-proprietary versions of documents furnished to the NRC in connection with requests for generic and/or plant-specific review and approval.

In order to conform to the requirements of 10 CFR 2.390 of the Commission's regulations concerning the protection of proprietary information so submitted to the NRC, the information which is proprietary in the proprietary versions is contained within brackets, and where the proprietary information has been deleted in the non-proprietary versions, only the brackets remain (the information that was contained within the brackets in the proprietary versions having been deleted). The justification for claiming the information so designated as proprietary is indicated in both versions by means of lower case letters (a) through (f) located as a superscript immediately following the brackets enclosing each item of information being identified as proprietary or in the margin opposite such information. These lower case letters refer to the types of information Westinghouse customarily holds in confidence identified in Sections (4)(ii)(a) through (4)(ii)(f) of the affidavit accompanying this transmittal pursuant to 10 CFR 2.390(b)(1).

COPYRIGHT NOTICE

The reports transmitted herewith each bear a Westinghouse copyright notice. The NRC is permitted to make the number of copies of the information contained in these reports which are necessary for its internal use in connection with generic and plant-specific reviews and approvals as well as the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or regulation subject to the requirements of 10 CFR 2.390 regarding restrictions on public disclosure to the extent such information has been identified as proprietary by Westinghouse, copyright protection notwithstanding. With respect to the non-proprietary versions of these reports, the NRC is permitted to make the number of copies beyond those necessary for its internal use which are necessary in order to have one copy available for public viewing in the appropriate docket files in the public document room in Washington, DC and in local public document rooms as may be required by NRC regulations if the number of copies submitted is insufficient for this purpose. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.