

September 7, 2004

Mr. James A. Gresham, Manager
Regulatory Compliance and Plant Licensing
Westinghouse Electric Company
P.O. Box 355
Pittsburgh, PA 15230-0355

SUBJECT: AP1000 - REQUESTS FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE (AW-03-1757, AW-04-1762, AW-04-1784, AND AW-04-1864)

Dear Mr. Gresham:

By application made by R. P. Vijuk, and affidavit executed by Mr. Dennis M. Popp, dated December 31, 2003, and December 30, 2003, respectively, Westinghouse Electric Company (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 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. ML040050443). An apparent error was made in the Proprietary markings in the header of several Open Item responses. Westinghouse addressed this error by resubmitting the responses to open items in a subsequent letter dated January 5, 2004. This letter noted that the application and affidavit supercedes the enclosure to the aforementioned December 31, 2003, letter. Details of the January 5, 2004, application and affidavit follow.

By application made by Mr. R. P. Vijuk, and affidavit executed by Mr. James W. Winters, both dated January 5, 2004, Westinghouse requested that portions of the transmitted AP1000 DSER open item responses, be withheld from public disclosure pursuant to 10 CFR 2.390. A nonproprietary copy of the proprietary material is available by contacting the NRC's Public Document Room and has been added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ADAMS Accession No. ML040080880). An apparent error was made in the Proprietary markings in response to Open Item 15.2.7-1 Item ADS4 Line Resistance response. Westinghouse addressed this error by revising the response to the open item in a subsequent letter dated January 26, 2004. Details of the January 26, 2004, application and affidavit follow. Also an apparent error was made in the Proprietary markings for part of the response to OI 21.5-2P Item 19. Westinghouse addressed this error by revising the response to the open item in a subsequent letter dated July 30, 2004. Details of the July 30, 2004, letter and affidavit follow.

By application made by Mr. R. P. Vijuk, and affidavit executed by Mr. James W. Winters, both dated January 26, 2004, Westinghouse requested that portions of the transmitted AP1000 DSER open item responses, be withheld from public disclosure pursuant to 10 CFR 2.390. A nonproprietary copy of the proprietary material is available by contacting the NRC's Public

Document Room and has been added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ADAMS Accession No. ML04040290529).

By letter dated July 30, 2004, from Mr. R.P. Vijuk, and affidavit executed by Mr. James W. Winter, Westinghouse requested that portions of the transmitted AP1000 DSER OI responses, be withheld from public disclosure pursuant to 10 CFR 2.390. A non proprietary copy of the proprietary material is available by contacting the NRC's Public Document Room and has been added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ADAMS Accession No. ML042160219)

The four transmittals 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, 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 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.

J. Gresham

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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; Ms. Lauren Quinones-Navarro at (301) 415-2007, lnq@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

J. Gresham

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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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AP 1000

cc:

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