



Westinghouse Electric Company
Nuclear Services
P.O. Box 355
Pittsburgh, Pennsylvania 15230-0355
USA

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

Direct tel: 412/374-4643
Direct fax: 412/374-4011
e-mail: greshaja@westinghouse.com
Project No.: 700
Our ref: LTR-NRC-04-39
June 23, 2004

Subject: Response to Round 4 Request for Additional Information for WCAP-16078-P, "Westinghouse BWR ECCS Evaluation Model: Supplement 3 to Code Description, Qualification and Application to SVEA-96 Optima2 Fuel" (Proprietary)

Reference: 1. Email, W. Macon (NRC) to R. Sisk (Westinghouse), "WCAP-16078" dated June 9, 2004.
2. WCAP-16078-P, Rev. 0, "Westinghouse BWR ECCS Evaluation Model: Supplement 3 to Code Description, Qualification and Application to SVEA-96 Optima2 Fuel," April 2003.

Transmitted herewith are three proprietary and two non-proprietary copies of Westinghouse Electric Company LLC (Westinghouse) responses to the Nuclear Regulatory Commission's Request for Additional Information (Reference 1) regarding WCAP-16078-P, "Westinghouse BWR ECCS Evaluation Model: Supplement 3 to Code Description, Qualification and Application to SVEA-96 Optima2 Fuel" (Reference 2). Also transmitted are an Application for Withholding, AW-04-1857, with its associated affidavit and proprietary information notice.

This transmittal contains Westinghouse proprietary information comprising trade secrets, commercial or financial information which are considered privileged or confidential pursuant to 10 CFR 9.17(a)(4). Accordingly, Westinghouse requests that the proprietary information attached hereto be handled on a confidential basis and be withheld from public disclosure.

This material is for internal use by the Nuclear Regulatory Commission and may only be used for the purpose for which it is submitted. It should not be otherwise used, disclosed, duplicated, or disseminated, in whole or in part, to any other person or organization outside the Nuclear Regulatory Commission without the expressed prior written approval of Westinghouse. Correspondence with respect to the Application for Withholding should reference AW-04-1857 and should be addressed to J. A. Gresham, Manager of Regulatory Compliance and Plant Licensing, Westinghouse Electric Company LLC, P.O. Box 355, Pittsburgh, Pennsylvania 15230-0355.

Very truly yours,

A handwritten signature in black ink that reads "Virgil Paggan for".

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

xc: W. A. Macon, Jr., NRC (w/ 3 proprietary copies)
F. M. Akstulewicz, NRC (w/o enclosures)
P. Clifford, NRC (w/o enclosures)

D054



Westinghouse Electric Company
Nuclear Services
P.O. Box 355
Pittsburgh, Pennsylvania 15230-0355
USA

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

Direct tel: 412-374-4643
Direct fax: 412-374-4011
e-mail: greshaja@westinghouse.com

Our ref: AW-04-1857
June 23, 2004

**APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE**

Subject: Letter, J. A. Gresham (WEC) to NRC Document Control Desk, "Response to Round 4 Request for Additional Information for WCAP-16078-P, 'Westinghouse BWR ECCS Evaluation Model: Supplement 3 to Code Description, Qualification and Application to SVEA-96 Optima2 Fuel'," LTR-NRC-04-39, dated June 23, 2004 (Proprietary)

This Application for Withholding is submitted by Westinghouse Electric Company LLC (Westinghouse) pursuant to the provisions of 10 CFR 2.390(b)(1), as amended, of the Commission's regulations. It pertains to the proprietary information contained in the subject Westinghouse response to the Staff's Request for Additional information on WCAP-16078-P.

In conformance with 10 CFR Section 2.390, Affidavit AW-04-1857 accompanies this Application for Withholding and sets forth the basis on which the identified proprietary information may be withheld from public disclosure. The justification for claiming this information as proprietary is identified in Sections (4)(ii)(a) through (4)(ii)(f) of the affidavit. Accordingly, Westinghouse respectfully requests that the proprietary information contained in this transmittal be withheld from public disclosure.

Correspondence with respect to the proprietary aspects of the Application for Withholding or the Westinghouse affidavit should reference this letter, AW-04-1857, and should be addressed to the undersigned.

Very truly yours,

A handwritten signature in cursive script that reads "Virgil Pagan for".

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

Enclosure

cc: W. A. Macon, Jr (NRC)

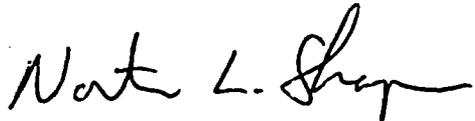
AFFIDAVIT

STATE OF CONNECTICUT)

) ss: WINDSOR, CT

COUNTY OF HARTFORD)

Before me, the undersigned authority, personally appeared Norton L. Shapiro, 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:



Norton L. Shapiro,
Chief Engineer
Westinghouse Nuclear Services

Sworn to and subscribed before me
this 23rd day of June 2004.



Notary Public

My commission expires May 31, 2008.

- (1) I, Norton L. Shapiro, depose and say that I am the Chief Engineer 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 the Westinghouse Electric Company LLC.
- (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 the Westinghouse Electric Company LLC 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 constitute Westinghouse policy and provide 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.
- (iii) There are sound policy reasons behind the Westinghouse system for classification of proprietary information, 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.
- (iv) 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.
- (v) 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.
- (vi) The proprietary information sought to be withheld in this submittal is that which is appropriately marked in the Enclosure to "Response to Round 4 Request for Additional Information for WCAP-16078-P, Westinghouse BWR ECCS Evaluation Model: Supplement 3 to Code Description, Qualification and Application to SVEA-96 Optima2 Fuel." This information is being transmitted to the NRC Document Control Desk by Westinghouse letter (LTR-NRC-04-39) and Application for Withholding Proprietary Information from Public Disclosure (AW-04-1857). The proprietary information as submitted for use by the Commission is expected to be applicable in other licensee submittals in response to certain NRC requirements for justification for the application of the Westinghouse BWR ECCS evaluation model.

This information is part of a model that will enable Westinghouse to evaluate the performance of BWR fuel during conditions when the emergency core cooling system is actuated, and in particular to supporting utilities in the application of Westinghouse supplied BWR fuel, that will enable Westinghouse to:

- (a) Perform BWR safety analyses employing the Westinghouse safety analysis methodology for SVEA-96 Optima2 fuel to ensure regulatory limits are met,
- (b) Identify important phenomena relevant to the application of the emergency core cooling model to boiling water reactor ECCS analyses including quantification of fuel performance, operational considerations and model implementation, and
- (c) Support licensees in regulatory actions in which demonstration of compliance with ECCS acceptance criteria is required

(vii) 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 the application and defense of BWR Loss of Coolant Accident Analyses.
- (c) The information requested to be withheld reveals the distinguishing aspects of a methodology that was developed by Westinghouse.

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 advanced nuclear power plant designs and to provide 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 non-proprietary versions of documents furnished to the NRC in connection with requests for generic and/or plant-specific review and approval.

That information which is proprietary in the proprietary version is contained within brackets in order to conform to the requirements of 10 CFR 2.390 of the Commission's regulations concerning the identification and protection of proprietary information voluntarily transmitted to the NRC. Such proprietary information has been deleted in the non-proprietary version, leaving only the brackets. The justification for claiming the information designated as proprietary is indicated in both versions by means of superscript letters (a) through (f) following the brackets enclosing each item identified as proprietary. These letters refer to the types of information Westinghouse customarily holds in confidence as identified in Sections (4)(ii)(a) through (4)(ii)(f) of the affidavit accompanying this transmittal pursuant to 10 CFR 2.390(b)(1).