

February 7, 2005

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

SUBJECT: NUCLEAR MANAGEMENT COMPANY, LLC - REQUEST FOR WITHHOLDING
OF PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE FOR POINT
BEACH NUCLEAR PLANT, UNITS 1 AND 2

Dear Mr. Gresham:

By letter dated October 28, 2004, Nuclear Management Company, LLC (NMC), submitted an affidavit dated September 29, 2004, executed by you requesting that the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

WCAP-1400-P, Rev. 2, "Structural Integrity Evaluation of RV Upper Head Penetrations to Support Continued Operation - Point Beach Units 1 & 2"
(Proprietary)

A nonproprietary copy of this document has been placed in the Nuclear Regulatory Commission's (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:

- a) The information sought to be withheld from public disclosure is owned and has been held in confidence by Westinghouse. Also, the information is of a type customarily held in confidence by Westinghouse and not disclosed to public.
- b) 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.
- c) 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 or services involving the use of the information.
- d) Use by a competitor would put Westinghouse at a competitive disadvantage by reducing his expenditure of resources at Westinghouse's expense.

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

We have reviewed your material in accordance with the requirements of 10 CFR 2.730 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 version of the submitted information 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 the 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 301-415-4018.

Sincerely,

/RA/

Harold K. Chernoff, Project Manager, Section 1
Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-266 and 50-301

cc: See next page

February 7, 2005

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

We have reviewed your material in accordance with the requirements of 10 CFR 2.730 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 version of the submitted information 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 the 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 301-415-4018.

Sincerely,

/RA/

Harold K. Chernoff, Project Manager, Section 1
Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-266 and 50-301

cc: See next page

DISTRIBUTION:

PUBLIC	RidsNrrLADClarke	RidsRgn3MailCenter
PDIII-1 Reading	RidsNrrDlpmLpdiii1 (MKotzalas)	RidsNrrPMHChernoff
RidsNrrPMESkarpac	RidsOgcRp	RidsNrrDlpmLpdiii (WRuland)

ADAMS Accession No.: ML050180741

Nrr-088

OFFICE	PDIII-1/PM	PDIII-1/PM	PDIII-1/LA	PDIII-1/SC
NAME	ESkarpac	HChernoff	DClarke	MKotzalas
DATE	2/3/05	2/3/05	2/1/05	2/4/05

OFFICIAL RECORD COPY

Point Beach Nuclear Plant, Units 1 and 2

cc:

Jonathan Rogoff, Esquire
Vice President, Counsel & Secretary
Nuclear Management Company, LLC
700 First Street
Hudson, WI 54016

Mr. F. D. Kuester
President & Chief Executive Officer
WE Generation
231 West Michigan Street
Milwaukee, WI 53201

Regulatory Affairs Manager
Point Beach Nuclear Plant
Nuclear Management Company, LLC
6610 Nuclear Road
Two Rivers, WI 54241

Mr. Ken Duveneck
Town Chairman
Town of Two Creeks
13017 State Highway 42
Mishicot, WI 54228

Chairman
Public Service Commission
of Wisconsin
P.O. Box 7854
Madison, WI 53707-7854

Regional Administrator, Region III
U.S. Nuclear Regulatory Commission
801 Warrenville Road
Lisle, IL 60532-4351

Resident Inspector's Office
U.S. Nuclear Regulatory Commission
6612 Nuclear Road
Two Rivers, WI 54241

Mr. Jeffery Kitsemel
Electric Division
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, WI 53707-7854

Nuclear Asset Manager
Wisconsin Electric Power Company
231 West Michigan Street
Milwaukee, WI 53201

John Paul Cowan
Executive Vice President & Chief Nuclear
Officer
Nuclear Management Company, LLC
700 First Street
Hudson, WI 54016

Douglas E. Cooper
Senior Vice President - Group Operations
Palisades Nuclear Plant
Nuclear Management Company, LLC
27780 Blue Star Memorial Highway
Covert, MI 49043

Site Director of Operations
Nuclear Management Company, LLC
6610 Nuclear Road
Two Rivers, WI 54241

Dennis L. Koehl
Site Vice-President
Point Beach Nuclear Plant
Nuclear Management Company, LLC
6590 Nuclear Road
Two Rivers, WI 54241