May 25, 2005

MEMORANDUM TO: File

FROM: Lawrence Rossbach, Project Manager, Section 2 **/RA/**
Project Directorate III
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

SUBJECT: PROPRIETARY DETERMINATION FOR HANDOUTS FOR APRIL 14, 2005, MEETING WITH WESTINGHOUSE ON APPLICATION OF OPTIMA2 TOPICAL REPORTS (TAC NOS. MC6517 AND MC6518)

By affidavit dated April 7, 2005, executed by J.W. Fasnacht, of Westinghouse Electric Company, LLC (W), W requested 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:

Overview of Westinghouse BWR Methodology: Vendor Transition and Reload, Presented to the USNRC on April 14, 2005.

This document, including a non-proprietary copywritten copy, was submitted to the Nuclear Regulatory Commission (NRC) by letter from W dated April 7, 2005. The April 7, 2005, letter with affidavit and attached documents have been added to the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room at package Accession Number ML051170386. A copy of this document with changes provided by W at the April 14, 2005, meeting has been placed in ADAMS at package Accession Number ML051080452.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

The information is owned and has been held in confidence by W.

The information is of a type customarily held in confidence by W and not customarily disclosed to the public.

The information reveals the distinguishing aspects of a process (or component, structure, tool, method, etc.) where prevention of its use by any W competitor without license from W constitutes a competitive economic advantage over other companies.

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.

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.

This information has substantial commercial value as follows: W can sell support and defense of W boiling-water reactor (BWR) methodology including vendor transition and reload requirements; the information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by W.

Public disclosure of the proprietary information is likely to cause substantial harm to the competitive position of W because it would enhance the ability of competitors to provide similar BWR methodology 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 W effort and the expenditure of a considerable sum of money.

In order for competitors of W 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.

I have reviewed W's affidavit and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of W's 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.

Project No. 700

Docket Nos. 50-254, 50-265, 50-237,
and 50-249

This information has substantial commercial value as follows: W can sell support and defense of W boiling-water reactor (BWR) methodology including vendor transition and reload requirements; the information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by W.

Public disclosure of the proprietary information is likely to cause substantial harm to the competitive position of W because it would enhance the ability of competitors to provide similar BWR methodology 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 W effort and the expenditure of a considerable sum of money.

In order for competitors of W 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 expanded.

I have reviewed W's affidavit and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of W's 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.

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