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Project No.: 700
Our ref: AW-05-2043
August 18, 2005

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

Subject: Supporting Material for NRC Meeting Regarding CROSSFLOW Ultrasonic Flow Measurement System Status (Proprietary)

In support of the upcoming CROSSFLOW Ultrasonic Flow Measurement System Status Meeting, Westinghouse Electric Company LLC (Westinghouse), a Delaware limited liability company, hereby transmits presentation material for use at the meeting with the Nuclear Regulatory Commission (NRC) staff on September 12, 2005. Portions of the meeting presentation material contains proprietary information for which withholding from public disclosure is requested.

The material for which withholding is being requested is contained in the proprietary enclosure (Enclosure 1-P) provided herewith. In conformance with 10 CFR Section 2.390, Affidavit AW-05-2043 accompanies this Application for Withholding, setting forth the basis on which the information may be withheld from public disclosure. Accordingly, it is respectfully requested that the subject information, which is proprietary to Westinghouse, be withheld from public disclosure in accordance with 10 CFR Section 2.390 of the Commission's regulations. A non-proprietary version of the subject material is provided in Enclosure 2.

Correspondence with respect to this application for withholding or the accompanying affidavit should reference AW-05-2043 and should be addressed to the undersigned.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'J. A. Gresham'.

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

cc: B. J. Benney (NRC)
G. F. Dick (NRC)
C. I. Grimes (NRC)

DOSY

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:



A handwritten signature in cursive script, reading "J. A. Gresham".

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

Sworn to and subscribed
before me this 18th day
of August, 2005

Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Patricia L. Crown, Notary Public
Monroeville Boro, Allegheny County
My Commission Expires Feb. 7, 2009
Member, Pennsylvania Association of Notaries

- (1) I, J. A. Gresham, am the Manager, Regulatory Compliance and Plant Licensing, in Nuclear Services, Westinghouse Electric Company LLC (Westinghouse), a Delaware limited liability company 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 rulemaking 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 which 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 in the Enclosure for "Supporting Material for NRC Meeting Regarding CROSSFLOW Ultrasonic Flow Measurement System Status" (Proprietary)," August 18, 2005, for submittal to the Commission, being transmitted herewith and Application for Withholding Proprietary Information from Public Disclosure, to the NRC Document Control Desk. The proprietary information as submitted for use by Westinghouse is expected to be applicable in licensee submittals in response to certain NRC requirements for justification of the application of the CROSSFLOW Ultrasonic Flow Measurement System.

This information is part of that which will enable Westinghouse to describe the application of the CROSSFLOW Ultrasonic Flow Measurement System to nuclear plants, and in particular, to support utilities in the application of such, including:

- (a) The identification of important phenomena relevant to the application of CROSSFLOW Ultrasonic Flow Measurement System.
- (b) Assessment of flow measurement signals obtained from the CROSSFLOW Ultrasonic Flow Measurement System.
- (c) The continued qualification of the CROSSFLOW Ultrasonic Flow Measurement System to plant applications.

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 defense of the CROSSFLOW Ultrasonic Flow Measurement System.
- (c) The information requested to be withheld reveals the distinguishing aspects of a methodology which 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

technical evaluation justifications 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 for developing the enclosed improved core thermal performance methodology.

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.

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).