

January 16, 2008

Mr. Thomas D. Walt, Vice President
H. B. Robinson Steam Electric Plant,
Unit No. 2
Carolina Power & Light Company
3581 West Entrance Road
Hartsville, South Carolina 29550-0790

SUBJECT: CAROLINA POWER AND LIGHT COMPANY - REQUEST FOR WITHHOLDING
OF PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE FOR
H.B. ROBINSON STEAM ELECTRIC PLANT, UNIT NO. 2 (TAC NO. MD7468)

Dear Mr. Walt:

By letter dated November 29, 2007, you submitted an affidavit dated June 2, 2006, executed by J.A. Gresham, Manager, Regulatory Compliance and Plant Licensing, in Nuclear Services, Westinghouse Electric Company LLC, 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:

Westinghouse Report LTR-SCS-06-22, Revision 1-P Attachment, "H.B. Robinson Unit 2 Turbine Trip without Reactor Trip Transient from the P-8 Setpoint Analysis."

A nonproprietary copy of this document has been placed in the U.S. 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:

- (1) The information sought to be withheld from public disclosure is owned and has been held in confidence by Westinghouse.
- (2) 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 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.
- (3) 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.

- (4) Further, this information has substantial commercial value as the information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by Westinghouse.
- (5) 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 analyses 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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, 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 a 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 301-415-3178.

Sincerely,

/RA/

Marlayna Vaaler, Project Manager
Plant Licensing Branch II-2
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-261

cc: See next page

- 4) Further, this information has substantial commercial value as the information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by Westinghouse.
- (5) 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 analyses 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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, 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 a 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 301-415-3178.

Sincerely,

/RA/

Marlayna Vaaler, Project Manager
 Plant Licensing Branch II-2
 Division of Operating Reactor Licensing
 Office of Nuclear Reactor Regulation

Docket No. 50-261

cc: See next page

DISTRIBUTION:

PUBLIC LPL2-2 R/F RidsNrrPMMVaaler RidsNrrLARSola
 RidsNrrDorLpl2-2 RidsNrrDssSrsb RidsOgcRp RidsAcrsAcnwMailCenter
 RidsRgn2MailCenter (RMusser)

ADAMS Accession Number: ML073460676

NRR-084

OFFICE	LPL2-2/PM	LPL2-2/LA	LPL2-2/BC
NAME	MVaaler	RSola	TBoyce
DATE	12/ 17 /07	12/ 17 /07	01/ 16 /08

Mr. T. D. Walt
Carolina Power & Light Company

**H. B. Robinson Steam Electric Plant,
Unit No. 2**

cc:

David T. Conley
Associate General Counsel II - Legal
Department
Progress Energy Service Company, LLC
Post Office Box 1551
Raleigh, North Carolina 27602-1551

Supervisor, Licensing/Regulatory
Programs
H. B. Robinson Steam Electric Plant,
Unit No. 2
Carolina Power & Light Company
3581 West Entrance Road
Hartsville, South Carolina 29550

Ms. Margaret A. Force
Assistant Attorney General
State of North Carolina
Post Office Box 629
Raleigh, North Carolina 27602

Mr. S.D. West
Superintendent - Security
H. B. Robinson Steam Electric Plant,
Unit No. 2
Carolina Power & Light Company
3581 West Entrance Road
Hartsville, South Carolina 29550

U. S. Nuclear Regulatory Commission
Resident Inspector's Office
H. B. Robinson Steam Electric Plant
2112 Old Camden Road
Hartsville, South Carolina 29550

Ms. Beverly Hall, Section Chief
N.C. Department of Environment
and Natural Resources
Division of Radiation Protection
3825 Barrett Dr.
Raleigh, North Carolina 27609-7721

Mr. Ernest J. Kapopoulos, Jr.
Plant General Manager
H. B. Robinson Steam Electric Plant,
Unit No. 2
Carolina Power & Light Company
3581 West Entrance Road
Hartsville, South Carolina 29550

Mr. Robert P. Gruber
Executive Director
Public Staff - NCUC
4326 Mail Service Center
Raleigh, North Carolina 27699-4326

Mr. Eric McCartney
Director of Site Operations
H. B. Robinson Steam Electric Plant,
Unit No. 2
Carolina Power & Light Company
3581 West Entrance Road
Hartsville, South Carolina 29550

Mr. Henry H. Porter, Assistant Director
South Carolina Department of Health
Bureau of Land & Waste Management
2600 Bull Street
Columbia, South Carolina 29201

Public Service Commission
State of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Mr. J. Paul Fulford
Manager, Performance Evaluation and
Regulatory Affairs PEB 5
Carolina Power & Light Company
Post Office Box 1551
Raleigh, North Carolina 27602-1551

Mr. C. T. Baucom
Manager - Support Services - Nuclear
H. B. Robinson Steam Electric Plant,
Unit No. 2
Carolina Power & Light Company
3581 West Entrance Road
Hartsville, South Carolina 29550

Mr. John H. O'Neill, Jr.
Pillsbury Winthrop Shaw Pittman, LLP
2300 N Street NW.
Washington, DC 20037-1128