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Our ref: LTR-NRC-08-3

Proj. 751

January 11, 2008

TRANSMITTAL OF PROPRIETARY INFORMATION

Enclosed is:

Westinghouse letter LD2127FRC dated January 11, 2008 to the NRC Concerning NRC use of Westinghouse Proprietary Information (Proprietary)

Also enclosed is:

1. An Application for Withholding from Public Disclosure, AW-08-2372 (non-proprietary) with Copyright Notice
2. An Affidavit (non-proprietary)

This submittal contains proprietary information of Westinghouse Electric Company LLC. In conformance with the requirements of 10 CFR Section 2.390, as amended, of the Commission's regulations, we are enclosing with this submittal an Application for Withholding from Public Disclosure, and an Affidavit. The Affidavit sets forth the basis on which the information identified as proprietary in the enclosed letter should be withheld from public disclosure.

Correspondence with respect to this matter should reference AW-08-2372 and should be addressed to:

J. A. Gresham, Manager
Regulatory Compliance and Plant Licensing
Westinghouse Electric Company LLC
P.O. Box 355
Pittsburgh, Pennsylvania 15203-0355

Very truly yours,

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

Enclosures

cc: Jon Thompson (NRC O-7E1A)

T007
D081
Add: Jon Thompson



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January 11, 2008

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Subject: Letter LD2127FRC dated January 11, 2008 from Westinghouse to the NRC Concerning
NRC use of Westinghouse Proprietary Information

This Application for Withholding is submitted by Westinghouse Electric Company LLC ("Westinghouse") pursuant to the provisions of 10 CFR Section 2.390(b)(1) of the Commission's regulations. The subject Westinghouse letter is proprietary to Westinghouse in its entirety and is of the type customarily held in confidence by Westinghouse.

In conformance with Section 2.390, Affidavit AW-08-2372 accompanies this Application for Withholding, setting forth the basis on which the proprietary letter may be withheld from public disclosure.

Accordingly, it is respectfully requested that the subject letter be withheld from public disclosure in accordance with 10 CFR Section 2.390 of the Commission's regulations.

Correspondence with respect to this Application for Withholding or the accompanying Affidavit should reference AW-08-2372 and should be addressed to J. A. Gresham, Manager, 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, appearing to read "J. A. Gresham".

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

Enclosures

cc: Jon Thompson (NRC O-7E1A)

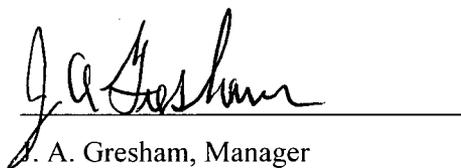
AFFIDAVIT

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:

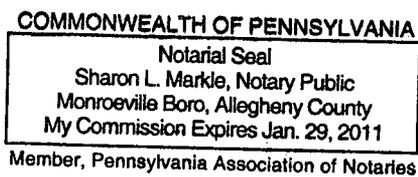


J. A. Gresham, Manager
Regulatory Compliance and Plant Licensing

Sworn to and subscribed before me
this 11th day of January, 2008



Notary Public



- (1) I am Manager, Regulatory Compliance and Plant Licensing, 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 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 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.
- (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 has been appropriately marked by Westinghouse for submittal to the Commission and is being transmitted by Westinghouse letter LTR-NRC-08-3 (together with an Application for Withholding Proprietary Information from Public Disclosure) to the Document Control Desk.

This information is part of that which will enable Westinghouse to:

- (a) The Westinghouse letter LD2127FRC dated January 11, 2008 discloses the details of a commercial strategy of Westinghouse, namely, a strategy of vigorously protecting Westinghouse Proprietary Information from unauthorized use by limiting NRC use of Westinghouse Proprietary Information to reviews of Westinghouse designs and submittals.

Public disclosure of the proprietary information is likely to cause substantial harm to the competitive position of Westinghouse.

Further the deponent sayeth not.

COPYRIGHT NOTICE

The reports transmitted herewith each bear a Westinghouse copyright notice. The NRC is permitted to make the number of copies of the information contained in these reports which are necessary for its internal use in connection with generic and plant-specific reviews and approvals as well as the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or regulation subject to the requirements of 10 CFR 2.390 regarding restrictions on public disclosure to the extent such information has been identified as proprietary by Westinghouse, copyright protection notwithstanding. With respect to the non-proprietary versions of these reports, the NRC is permitted to make the number of copies beyond those necessary for its internal use which are necessary in order to have one copy available for public viewing in the appropriate docket files in the public document room in Washington, DC and in local public document rooms as may be required by NRC regulations if the number of copies submitted is insufficient for this purpose. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.