Westinghouse

Westinghouse Electric Company LLC
Nuclear Fuel
Columbia Fuel Site
P.O. Drawer R
Columbia, South Carolina 29250
USA

U.S. Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555-0001

Direct tel: 803-647-3137
Direct fax: 803-695-3964
e-mail: alstadcd@westinghouse.com
Your ref:
Our ref: LTR-RAC-09-4
January 5, 2009

APPLICATION FOR WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE

Subject: "Quarterly Status Report of Nuclear Criticality Safety Improvement Project – January 5, 2009 (Proprietary)

Reference: Letter from Gerard F. Couture to Ms. Nilda Rivera, LTR-RAC-09-3, dated January 5, 2009

The Application for Withholding is submitted by Westinghouse Electric Company LLC (Westinghouse), pursuant to the provisions of Paragraph (b) (1) of Section 2.390 of the Commission's regulations. It contains commercial strategic information proprietary to Westinghouse and customarily held in confidence.

The proprietary material for which withholding is being requested is identified in the proprietary version of the subject report. In conformance with 10 CFR Section 2.390, an Affidavit accompanies this Application for Withholding, setting forth the basis on which the identified proprietary 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.

Sincerely,

Cary D. Alstadt, Manager
Columbia Fuel Fabrication Facility
WESTINGHOUSE ELECTRIC COMPANY LLC

cc:
Docket 70-1151 License SNM-1107

Attachments: LTR-RAC-09-3 Nuclear Criticality Safety Improvement Project Status Report

NMSS01
NMSS

cc: U. S. Nuclear Regulatory Commission
Attn. Mr. Richard Gibson Region II
Atlanta Federal Center
61 Forsyth Street, SW, Suite 23T85
Atlanta, Georgia 30303-3415

Ms. Nilda Rivera, Project Manager
Fuel Manufacturing Branch
Division of Fuel Cycle Safety and Safeguards
11555 Rockville Pike
Mail Stop EBB-2-C40
Rockville, MD 20852

AFFIDAVIT

(1) I am the Manager, Columbia Fuel Fabrication Facility in Nuclear Fuel, 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 Westinghouse submittals to NRC, 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 constitute Westinghouse policy and provide 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 may provide Westinghouse's competitors with information on the methods and procedures which Westinghouse uses to fulfill regulatory and licensing obligations. The extent to which such information is available to competitors may diminish the need of Westinghouse competitors to develop such methods and procedures without comparable investment of time and resources.

(c) Use by our competitors would put Westinghouse at a competitive disadvantage by reducing our competitor's expenditures of resources by allowing them to build upon or utilize methods and procedures developed by Westinghouse at great expense.

(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 contained in, "Quarterly Status Report of Nuclear Criticality Safety Improvement Project – January 2009" (Proprietary), for submittal to the Commission, being transmitted by Westinghouse letter LTR-RAC-09-03 and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted by Westinghouse is that associated with implementation of the Criticality Safety Improvement Project. 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 address similar criticality safety regulatory and licensing issues without commensurate expenses.

The development of the Criticality Safety Improvement process described in part by the information is the result of 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 and procedural programs would have to be developed and a significant manpower effort, having the requisite talent and experience, would have to be expended.

The averments of fact set forth in this Affidavit are true and correct to the best of my knowledge, information, and belief:

Cary D. Alstadt, Manager
Columbia Fuel Fabrication Facility
WESTINGHOUSE ELECTRIC COMPANY LLC

Transmitted herewith are proprietary and/or 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).

COPYRIGHT NOTICE

If any documents 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 such documents, 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.

ATTACHMENTS

Nuclear Criticality Safety Improvement Project Status Report
Westinghouse Letter LTR-RAC-09-3 (Proprietary)
Westinghouse Letter LTR-RAC-09-3 (Redacted)