



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 27, 2009

Mr. Rafael Flores
Senior Vice President
& Chief Nuclear Officer
Luminant Generation Company LLC
P.O. Box 1002
Glen Rose, TX 76043

SUBJECT: COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2 - REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE (TAC NOS. MD8417 AND MD8418)

Dear Mr. Flores:

By letter dated January 22, 2009, Mr. Fred W. Madden, Director, Oversight and Regulatory Affairs, Luminant Generation Company LLC (the licensee), submitted an affidavit, executed by Mr. R. M. Span, Principal Engineer, Regulatory Compliance and Plant Licensing, for Westinghouse Electric Company LLC (Westinghouse), dated January 21, 2009, requesting that the information designated as proprietary in the response to request for additional information, question numbers 12 and 17, associated with spent fuel pool criticality analysis, be withheld from the public disclosure pursuant to paragraph (a)(4) of Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 390. The response to question numbers 12 and 17 and the Westinghouse affidavit are Attachment 1 and Enclosure, respectively, to the licensee's letter dated January 22, 2009.

A non-proprietary copy of the document, provided as Attachment 2 to the letter dated January 22, 2009, has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room (ADAMS Accession No. ML090700442).

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

- (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.
- (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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390, and on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, 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) 415-3016.

Sincerely,


Balwant K. Singal, Senior Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-445 and 50-446

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R. Flores

- 2 -

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/RA/

Balwant K. Singal, Senior Project Manager
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*See previous concurrence

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