September 24, 2009

Mr. B. F. Maurer, Manager,
ABWR Licensing,
Westinghouse Electric Company LLC
P.O. Box 355
Pittsburgh, PA 15230-0355

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE "NRC CONTAINMENT AUDIT - HYDRODYNAMIC LOADS-POOL SWELL – STP 3 & 4 COLA" (PROPRIETARY)

Dear Mr. Maurer:

By letter to the U. S. Nuclear Regulatory Commission (NRC) dated August 14, 2009, you submitted an affidavit dated August 14, 2009, executed by you as Manager, ABWR Licensing, Westinghouse Electric Company LLC requesting that information in the following report is withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 2.390:

"NRC Containment Audit - Hydrodynamic Loads-Pool Swell – STP 3 & 4 COLA" (proprietary)

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

i. This information sought to be withheld from public disclosure is owned and has been held in confidence by Westinghouse.

ii. This information is of a type that is 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.

iii. This information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR 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 appropriately marked in, "NRC Containment Audit - Hydrodynamic Loads-Pool Swell – STP 3 &4 COLA" (proprietary) for submittal to the Commission, being transmitted by Westinghouse letter (LTR-NRC-09-43) 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 the NRC audit of the Westinghouse containment analysis / hydrodynamic loads methodology as applied to the South Texas Project Units 3 and 4 COL Application.

We have reviewed the August 14, 2009, letter and the affidavit 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, “NRC Containment Audit – Hydrodynamic Loads-Pool Swell – STP 3 & 4 COLA STP 3 & 4 COLA" 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 301-415-1494 or George.Wunder@nrc.gov.

Sincerely,

**/RA/**

George F. Wunder, Senior Project Manager
ABWR Projects Branch 2
Division of New Reactor Licensing
Office of New Reactors

Docket Nos.: 52-012 and 52-013
cc: See next page

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Sincerely,
**/RA/**
George F. Wunder, Senior Project Manager
ABWR Projects Branch 2
Division of New Reactor Licensing
Office of New Reactors

Docket Nos.: 52-012 and 52-013
cc: See next page

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**ADAMS Accession No.: ML092540515** **NRO-002**

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| DATE | 9/24/09 | 9/14/09 | 9/23/09 | 9/23/09 |

**OFFICIAL RECORD COPY**

Letter to B. F. Maurer from G. Wunder dated September 24, 2009

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