October 14, 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 "PRE-SUBMITTAL MEETING - WESTINGHOUSE BWR ECCS EVALUATION MODEL: SUPPLEMENT 5 - APPLICATION TO THE ABWR" (PROPRIETARY)

Dear Mr. Maurer:

By letter to the U. S. Nuclear Regulatory Commission (NRC) dated July 24, 2009, you submitted an affidavit dated July 24, 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:

> LTR-NRC-09-39 P-Enclosure, "Pre-Submittal Meeting - Westinghouse BWR ECCS Evaluation Model: Supplement 5 - Application to the ABWR" (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 constitutes 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 "Pre-Submittal Meeting - Westinghouse BWR ECCS Evaluation Model: Supplement 5 - Application to the ABWR" (Proprietary) for a meeting to be held on July 28, 2009, for submittal to the Commission, being transmitted by Westinghouse letter (LTR-NRC-09-39) 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 material to be discussed at the July 28, 2009 meeting with the NRC.

We have reviewed the July 24, 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, the LTR-NRC-09-39 P-Enclosure, Pre-Submittal Meeting - Westinghouse BWR ECCS Evaluation Model: Supplement 5 - Application to the ABWR" 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

v. The proprietary information sought to be withheld in this submittal is that which is appropriately marked in LTR-NRC-09-39 P-Enclosure, Presentation Slides "Pre-Submittal Meeting - Westinghouse BWR ECCS Evaluation Model: Supplement 5 - Application to the ABWR" (Proprietary) for a meeting to be held on July 28, 2009, for submittal to the Commission, being transmitted by Westinghouse letter (LTR-NRC-09-39) 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 material to be discussed at the July 28, 2009 meeting with the NRC

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ABWR Projects Branch 2
Division of New Reactor Licensing
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Docket Nos.: 52-012 and 52-013
cc: See next page
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