

March 13, 1989

Docket No. 50-286

Mr. Robert A. Wieseemann, Manager
Regulatory and Legislative Affairs
Westinghouse Electric Corporation
Post Office Box 355
Pittsburgh, Pennsylvania 15230

Dear: Mr. Wieseemann:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(TAC NO. 69543)

DISTRIBUTION

Docket file
PDR
Local PDR
PDI-1 Rdg
RCapra
GLainas
BBoger
CVogan
DBrinkman
BKildee
JJohnson, RI

By your application dated January 25, 1989 and your affidavit dated November 16, 1988, you submitted WCAP-12003, Revision 1, (Proprietary) and WCAP-12004, Revision 1, (Non-Proprietary), "Westinghouse Improved Thermal Design Procedure Instrument Uncertainty Methodology for Consolidated Edison Company of New York - Indian Point 2," December 1988, and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790.

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

- (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, and 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.

8903230233 890313
PDR ADDCK 05000286
P PNU

DFol

11

A/A 3

cc

- (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.
- (g) It is not the property of Westinghouse, but must be treated as proprietary by Westinghouse according to agreements with the owner.

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 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 on 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 2.790, 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 "Westinghouse Improved Thermal Design Procedure Instrument Uncertainty Calculations for Diablo Canyon Units 1 and 2," WCAP-11594 (Proprietary), for Diablo Canyon Power Plant Units 1 and 2, being transmitted by the Pacific Gas & Electric Company letter and Application for Withholding Proprietary Information from Public Disclosure, J. D. Shiffer, PG&E, to U. S. Nuclear Regulatory Commission Document Control Desk, November 30, 1988. The proprietary information as submitted for use by Pacific Gas & Electric Company for the Diablo Canyon Power Plant Units 1 and 2 is expected to be applicable in other licensee submittals in response to certain NRC requirements for justification of plant specific calculations for the uncertainties associated with Pressurizer Pressure, Reactor Coolant System (RCS) Coolant Average Temperature (T_{avg}), RCS Flow, and Reactor Power for use in the Improved Thermal Design Procedure.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of Westinghouse's statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, the version(s) of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(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.

Mr. Robert A. Wieseemann

- 4 -

March 13, 1989

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.

Sincerely,

ORIGINAL SIGNED BY
Donald S. Brinkman, Senior Project Manager
Project Directorate I-1
Division of Reactor Projects I/II

cc: See next page

OFC	: PDI-1	: PDI-1	: PDI-1	: OGC	:	:	:
NAME	: CVogan:vr	: DBrinkman	: RCapra	: BKildee	:	:	:
DATE	: 3/6/89	: 3/7/89	: 3/7/89	: 3/13/89	:	:	:

OFFICIAL RECORD COPY

Mr. Robert A. Wiesemann
Westinghouse Electric Corporation

Indian Point Nuclear Generating
Station 1/2

cc:

Mayor, Village of Buchanan
236 Tate Avenue
Buchanan, New York 10511

Ms. Donna Ross
New York State Energy Office
2 Empire State Plaza
16th Floor
Albany, New York 12223

Mr. Jude Del Percio
Manager of Regulatory Affairs
Consolidated Edison Company
of New York, Inc.
Broadway and Bleakley Avenue
Buchanan, New York 10511

Senior Resident Inspector
U.S. Nuclear Regulatory Commission
Post Office Box 38
Buchanan, New York 10511

Mr. Brent L. Brandenburg
Assistant General Counsel
Consolidated Edison Company
of New York, Inc.
4 Irving Place - 1822
New York, New York 10003

Mr. Stephen B. Bram
Vice President, Nuclear Power
Consolidated Edison Company
of New York, Inc.
Broadway and Bleakley Avenue
Buchanan, New York 10511

Director, Technical Development
Programs
State of New York Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223

Mr. Peter Kokolakis, Director
Nuclear Licensing
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. Walter Stein
Secretary - NFSC
Consolidated Edison Company
of New York, Inc.
4 Irving Place - 1822
New York, New York 10003

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Charlie Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, New York 10271

Docket No. 50-286

Mr. Robert A. Wieseemann, Manager
Regulatory and Legislative Affairs
Westinghouse Electric Corporation
Post Office Box 355
Pittsburgh, Pennsylvania 15230

Dear: Mr. Wieseemann:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(TAC NO. 69543)

DISTRIBUTION

Docket file
PDR
Local PDR
PDI-1 Rdg
RCapra
GLainas
BBoger
CVogan
DBrinkman
BKildee
JJohnson, RI

By your application dated January 25, 1989 and your affidavit dated November 16, 1988, you submitted WCAP-12003, Revision 1, (Proprietary) and WCAP-12004, Revision 1, (Non-Proprietary), "Westinghouse Improved Thermal Design Procedure Instrument Uncertainty Methodology for Consolidated Edison Company of New York - Indian Point 2," December 1988, and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790.

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

- (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, and 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.
- (g) It is not the property of Westinghouse, but must be treated as proprietary by Westinghouse according to agreements with the owner.

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 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 on 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 2.790, 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 "Westinghouse Improved Thermal Design Procedure Instrument Uncertainty Calculations for Diablo Canyon Units 1 and 2," WCAP-11594 (Proprietary), for Diablo Canyon Power Plant Units 1 and 2, being transmitted by the Pacific Gas & Electric Company letter and Application for Withholding Proprietary Information from Public Disclosure, J. D. Shiffer, PG&E, to U. S. Nuclear Regulatory Commission Document Control Desk, November 30, 1988. The proprietary information as submitted for use by Pacific Gas & Electric Company for the Diablo Canyon Power Plant Units 1 and 2 is expected to be applicable in other licensee submittals in response to certain NRC requirements for justification of plant specific calculations for the uncertainties associated with Pressurizer Pressure, Reactor Coolant System (RCS) Coolant Average Temperature (T_{avg}), RCS Flow, and Reactor Power for use in the Improved Thermal Design Procedure.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of Westinghouse's statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, the version(s) of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(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.

Mr. Robert A. Wieseemann

- 4 -

March 13, 1989

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.

Sincerely,

ORIGINAL SIGNED BY
Donald S. Brinkman, Senior Project Manager
Project Directorate I-1
Division of Reactor Projects I/II

cc: See next page

OFC	:PDI-1	:PDI-1	:PDI-1	:OGC	:	:	:
NAME	:CVogan:vr	:DBrinkman	:RCapra	:BK1Tdee	:	:	:
DATE	:3/6/89	:3/7/89	:3/7/89	:3/13/89	:	:	:

OFFICIAL RECORD COPY

Mr. Robert A. Wiesemann
Westinghouse Electric Corporation

**Indian Point Nuclear Generating
Station 1/2**

cc:

Mayor, Village of Buchanan
236 Tate Avenue
Buchanan, New York 10511

Ms. Donna Ross
New York State Energy Office
2 Empire State Plaza
16th Floor
Albany, New York 12223

Mr. Jude Del Percio
Manager of Regulatory Affairs
Consolidated Edison Company
of New York, Inc.
Broadway and Bleakley Avenue
Buchanan, New York 10511

Senior Resident Inspector
U.S. Nuclear Regulatory Commission
Post Office Box 38
Buchanan, New York 10511

Mr. Brent L. Brandenburg
Assistant General Counsel
Consolidated Edison Company
of New York, Inc.
4 Irving Place - 1822
New York, New York 10003

Mr. Stephen B. Bram
Vice President, Nuclear Power
Consolidated Edison Company
of New York, Inc.
Broadway and Bleakley Avenue
Buchanan, New York 10511

Director, Technical Development
Programs
State of New York Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223

Mr. Peter Kokolakis, Director
Nuclear Licensing
Power Authority of the State
of New York
123 Main Street
White Plains, New York 10601

Mr. Walter Stein
Secretary - NFSC
Consolidated Edison Company
of New York, Inc.
4 Irving Place - 1822
New York, New York 10003

Regional Administrator, Region I
U.S. Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406

Charlie Donaldson, Esquire
Assistant Attorney General
New York Department of Law
120 Broadway
New York, New York 10271