



December 21, 2009

NRC 2009-0128
10 CFR 50.90

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555

Point Beach Nuclear Plant, Units 1 and 2
Dockets 50-266 and 50-301
Renewed License Nos. DPR-24 and DPR-27

License Amendment Request 261
Extended Power Uprate
Response to Request for Additional Information

- References:
- (1) FPL Energy Point Beach, LLC letter to NRC, dated April 7, 2009, License Amendment Request 261, Extended Power Uprate (ML091250564)
 - (2) NRC letter to NextEra Energy Point Beach, LLC, dated November 24, 2009, Point Beach Nuclear Plant, Units 1 and 2 - Request for Additional Information from Reactor Systems Branch RE: Extended Power Uprate (TAC Nos. ME1044 and ME1045) (ML093240028)

NextEra Energy Point Beach, LLC (NextEra) submitted License Amendment Request (LAR) 261 (Reference 1) to the NRC pursuant to 10 CFR 50.90. The proposed amendment would increase each unit's licensed thermal power level from 1540 megawatts thermal (MWt) to 1800 MWt, and revise the Technical Specifications (TS) to support operation at the increased thermal power level.

The NRC staff determined that additional information was required (Reference 2). Enclosure 1 provides the NextEra proprietary response to the NRC staff's request. Enclosure 2 provides the NextEra non-proprietary response to the NRC staff's request. Enclosure 3 provides Westinghouse authorization letter CAW-09-2715 with accompanying affidavit, Proprietary Information Notice and Copyright Notice that supports Enclosure 1.

The affidavit sets forth the basis on which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in Paragraph (b)(4) of 10 CFR 2.390.

It is requested that the information which is proprietary to Westinghouse be withheld from public disclosure in accordance with 10 CFR 2.390. Correspondence with respect to the copyright or proprietary aspects of the items listed above or the supporting Westinghouse affidavit should reference CAW-09-2715 and should be addressed to J. A. Gresham, Manager, Regulatory Compliance and Plant Licensing, Westinghouse Electric Company, LLC, P.O. Box 355, Pittsburgh, Pennsylvania 15230-0355.

This letter contains no new Regulatory Commitments and no revisions to existing Regulatory Commitments.

The information contained in this letter does not alter the no significant hazards consideration contained in Reference (1) and continues to satisfy the criteria of 10 CFR 51.22 for categorical exclusion from the requirements of an environmental assessment.

In accordance with 10 CFR 50.91, a copy of this letter is being provided to the designated Wisconsin Official.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on December 21, 2009.

Very truly yours,

NextEra Energy Point Beach, LLC



Larry Meyer
Site Vice President

Enclosures

cc: Administrator, Region III, USNRC
Project Manager, Point Beach Nuclear Plant, USNRC
Resident Inspector, Point Beach Nuclear Plant, USNRC
PSCW

ENCLOSURE 3

**NEXTERA ENERGY POINT BEACH, LLC
POINT BEACH NUCLEAR PLANT, UNITS 1 AND 2**

**LICENSE AMENDMENT REQUEST 261
EXTENDED POWER UPRATE**

**WESTINGHOUSE AUTHORIZATION LETTER, ACCOMPANYING AFFIDAVIT,
PROPRIETARY INFORMATION NOTICE, AND COPYRIGHT NOTICE
CAW-09-2715**



Westinghouse

Westinghouse Electric Company
Nuclear Services
P.O. Box 355
Pittsburgh, Pennsylvania 15230-0355
USA

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

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Proj letter ref WEP-09-133 P-Attachment
Our ref: CAW-09-2715

December 14, 2009

**APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE**

Subject: Point Beach Unit 1 and Unit 2 (WEP/WIS) Extended Power Uprate (EPU) License Amendment Request (LAR) Responses to Request for Additional Information (RAI)

The proprietary information for which withholding is being requested in the above-referenced report is further identified in Affidavit CAW-09-2715 signed by the owner of the proprietary information, Westinghouse Electric Company LLC. The affidavit, which accompanies this letter, sets forth the basis on which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in paragraph (b)(4) of 10 CFR Section 2.390 of the Commission's regulations.

Accordingly, this letter authorizes the utilization of the accompanying affidavit by NextEra Energy Point Beach, LLC.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-09-2715, and should be addressed to J. A. Gresham, Manager, Regulatory Compliance and Plant Licensing, Westinghouse Electric Company LLC, P.O. Box 355, Pittsburgh, Pennsylvania 15230-0355.

Very truly yours,

J. A. Gresham, Manager
Regulatory Compliance and Plant Licensing

Enclosures

cc: George Bacuta (NRC OWFN 12E-1)

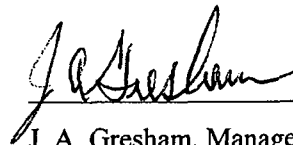
AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

ss

COUNTY OF ALLEGHENY:


Before me, the undersigned authority, personally appeared J. A. Gresham, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Westinghouse Electric Company LLC (Westinghouse), and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:



J. A. Gresham, Manager

Regulatory Compliance & Plant Licensing

Sworn to and subscribed before me
this 14th day of December, 2009


Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Joyce A. Szepessy, Notary Public
Monroeville Boro, Allegheny County
My Commission Expires April 18, 2013
Member, Pennsylvania Association of Notaries

- (1) I am Manager, Regulatory Compliance & Plant Licensing, in Nuclear Services, 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 nuclear power plant licensing and rule making proceedings, 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 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, 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 that 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 upon 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 2.390, 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 as "Point Beach Unit 1 and Unit 2 (WEP/WIS) Extended Power Uprate (EPU) License Amendment Request (LAR) Responses to Request for Additional Information (RAI)," being transmitted by NextEra Energy Point Beach, LLC letter and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted for use by Westinghouse for Point Beach Units 1 and 2 is expected to be applicable for other licensee submittals in response to certain NRC requests for additional information on small break LOCA.

This information is part of that which will enable Westinghouse to:

- (a) Provide input to the Nuclear Regulatory Commission for review of the Point Beach extended power uprate submittal.
- (b) Provide results of customer specific calculations.

- (c) Provide licensing support for customer submittals.

Further this information has substantial commercial value as follows:

- (a) Westinghouse plans to sell the use of similar information to its customers for purposes of meeting NRC requirements for licensing documentation associated with small break LOCA submittals.
- (b) Westinghouse can sell support and defense of the technology to its customer in the licensing process.
- (c) The information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by Westinghouse.

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 provide similar information and licensing defense services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

The development of the technology described in part by the information is the result of applying the results of many years of experience in 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 programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended.

Further the deponent sayeth not.

PROPRIETARY INFORMATION NOTICE

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

The reports 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 these reports, 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.