

WESTINGHOUSE PROPRIETARY AFFIDAVIT

TO BE WITHHELD FROM PUBLIC DISCLOSURE

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(Supplement to AW-77-13)

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared Robert A. Wiesemann, 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 Corporation ("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:


Robert A. Wiesemann, Manager
Licensing Programs

Sworn to and subscribed
before me this 1st day
of September 1977.



Notary Public

REBECCA A. LORINCE, NOTARY PUBLIC
MONROEVILLE BOROUGH
ALLEGHENY COUNTY

MY COMMISSION EXPIRES APR. 15, 1978

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THE NATURE OF THE COMPETITION IN THE NUCLEAR BUSINESS

Westinghouse's principal competitors in the nuclear steam supply business are Babcock & Wilcox, Combustion Engineering, and General Electric. The principal U. S. competitors in the nuclear fuel fabrication business are Babcock & Wilcox, Combustion Engineering, Exxon, and General Electric. With the exception of General Electric, these competitors are new entries in the business with substantially smaller investments in technology. Westinghouse also has competition from foreign fabricators. This competition can drastically affect our ability to obtain contracts in the international market. Specific competitors include ASEA-ATOM (Sweden), Kraftwerk AEG (Germany), Framatome (France), BNFL (Great Britain), Enusa (Spain), Mitsubishi (Japan), and Fabricazione Nucleari (Italy).

Both the nuclear steam supply and the nuclear fuel fabrication businesses involve high technology, and competition is on the basis of that high technology rather than on price. Only if competition continues based on technology will Westinghouse be able to recover its substantial investments in technology and product development.

EFFECT OF RELEASE OF INFORMATION ON WESTINGHOUSE COMPETITIVE POSITION

If, as a matter of general practice, cost or price information or information about the basis on which Westinghouse makes its business judgments were made publicly available, it would have the general effect of altering the nature of competition from a technology base to a price base. This would change the entire complexion of the business and drive it toward a low investment-low technology development business. Under such circumstances, those in the business with heavy unrecovered investments in technology such as Westinghouse would have difficulty competing successfully with those who have made relatively small investments since

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business would tend to go to the lowest qualified bidder. The general public would also suffer in that they would be deprived of the benefits of technological developments that would most likely far exceed any short-term benefits derived from lower prices. Likewise, a general practice of making publicly available information obtained from investments in technology would enable competitors to benefit without having to make commensurate investments. This would stifle the incentive for further investments in technology and drive the business to price-based competition instead of competition on the basis of technology with the same end results as in the case of disclosure of cost or price information.

WHAT WESTINGHOUSE SEEKS TO PROTECT

Westinghouse seeks to protect its ability to recover its investments in:

- (1) Basic data resulting from research and development.
- (2) Analytical methods and models.
- (3) Details of our designs including margins, tolerances, etc.
- (4) The knowledge of what data to present and how to present the data to satisfy NRC licensing requirements. NOTE: In the current licensing environment, the capability to obtain licensing approval has become very important in the marketplace.

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The above identified information is of considerable commercial advantage to the competitors of Westinghouse to the extent that it eliminates the need for similar investments in technology.

RELATIONSHIP OF INFORMATION SOUGHT TO BE WITHHELD FROM PUBLIC DISCLOSURE TO WHAT IS SOUGHT TO BE PROTECTED

INFORMATION SOUGHT TO BE WITHHELD

The information sought to be withheld involves the results of the June, 1976 Startup Program tests conducted at Indian Point Unit 3 and consists of descriptions of the tests conducted, descriptions of the data analyzed and the analytical techniques utilized in developing a comparison between measured core power distribution parameters and calculated 1D/2D synthesis results using Westinghouse design models and methods. The release of this information would result in the following competitor benefits:

POTENTIAL ADVANTAGES TO COMPETITORS

1. It reduces or eliminates the amount of analysis, research and development work competitors would have to do by providing specific data which, by normalization to other information, whether it be their own or that which is made publicly available, enables competitors to derive the results of research and development work with a much smaller investment of their own resources.
2. It allows competitors to verify their own analytical techniques using comparative analyses arguments and with a much smaller investment of resources.

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3. It would provide an opportunity to competitors to evaluate the effectiveness of Westinghouse analytical techniques to predict results.
4. It enables competitors to define and justify the scope and contents of their development program based on a comparison with an accepted Westinghouse program and thereby reduce their costs.
5. It would provide competitors the opportunity to develop and design a Westinghouse core on a time schedule and cost investment which would allow them to readily counter Westinghouse in the marketplace.
6. It would reveal new analytical considerations and allow competitors to develop their own analytical techniques with minimal development costs.

Competitors could obtain the equivalent information, with difficulty, by developing the necessary computer programs in the same manner that Westinghouse did, investing similar sums of money, and provided they had the appropriate talent available and the requisite development experience.

INVESTMENT BY WESTINGHOUSE IN WHAT IS SOUGHT TO BE PROTECTED

A considerable amount of highly qualified development effort has been expended over a three year period in formulating the particular analytical models and computer programs used to perform these test programs. The investment involved in direct labor and developing computer programs amounts to over one hundred thousand dollars. This effort included a core control and protection program, the development of mapping techniques, a peaking factor prediction method and a 3-D methodology program.

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POTENTIAL HARM TO WESTINGHOUSE

We believe there is a likelihood of substantial harm to the competitive position of Westinghouse if the information sought to be withheld is publicly disclosed. The public disclosure of this type of information could ultimately result in the loss of approximately thirty to sixty million dollars in potential revenue for analytical services.

Some of the ways in which Westinghouse would be harmed by our competitors if they had this information are:

1. They could outbid us on jobs to perform and justify analyses as the amount of their investment in development would be far less than ours.
2. They could assure their customers of their ability to meet NRC licensing requirements on the basis that their codes predicted the same results as the Westinghouse codes.
3. They could sell analytical services in competition with Westinghouse based upon the knowledge gained and the analytical methods developed using this information.

An example of Westinghouse information publicly disclosed and serving to the advantage of our competitors is an instance where information submitted to the NRC by Westinghouse was used by the NRC practically verbatim in the issuance of the regulatory guide concerning the rod ejection accident. There was no attempt by Westinghouse to protect this information from disclosure in this instance, but it serves to illustrate the value which can accrue to competitors from the release of the more sensitive information which Westinghouse does seek to protect.

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A further example--a licensee, a customer of a Westinghouse competitor, concluded that power spikes due to fuel densification in both the LOCA and DNB analyses need not be considered. In both cases, justification was based upon Westinghouse topical reports. The NRC Staff concluded this was acceptable. This situation was further aggravated by the fact that the licensee had not considered the effects of rod bowing on DNB and LOCA analyses. However, based upon experimental data in another Westinghouse topical report which had been reviewed and accepted by the Staff, the licensee was able to eliminate penalties.

Further the deponent sayeth not.