



Westinghouse
Electric Corporation

Energy Systems

Nuclear and Advanced
Technology Division

Box 355
Pittsburgh Pennsylvania 15230-0355

January 9, 1989
CAW-89-004

Mr. Thomas Murley, Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Subject: "WCAP-10977, Supplement 1 (Proprietary) 1) and
WCAP-10976, Supplement 1 (Non-Proprietary) titled
"ADDITIONAL INFORMATION IN SUPPORT OF THE TECHNICAL
JUSTIFICATION FOR ELIMINATING LARGE PRIMARY LOOP PIPE
RUPTURE AS THE STRUCTURAL DESIGN BASIS FOR INDIAN POINT
UNIT 2".

Dear Mr. Murley:

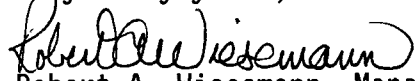
The proprietary information for which withholding is being requested in the enclosed letter by Consolidated Edison is further identified in an affidavit signed by the owner of the proprietary information, Westinghouse Electric Corporation. The affidavit, which accompanies this letter, sets forth the 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 10CFR Section 2.790 of the Commission's regulations.

The proprietary material for which withholding is being required is of the same technical type as that proprietary material previously submitted as Affidavit CAW-88-113.

Accordingly, this letter authorizes the utilization of the accompanying affidavit by Consolidated Edison.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-89-004, and should be addressed to the undersigned.

Very truly yours,


Robert A. Wiesemann, Manager
Regulatory & Legislative Affairs

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PDR ADOCK 05000247
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Enclosures

cc: E. C. Shomaker, Esq.
Office of the Executive Legal Director, NRC

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 10CFR2.790 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 (g) CONTAINED WITHIN PARENTHESES 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)(11)(a) THROUGH (4)(ii)(g) OF THE AFFIDAVIT ACCOMPANYING THIS TRANSMITTAL PURSUANT TO 10CFR2.790(b)(1).

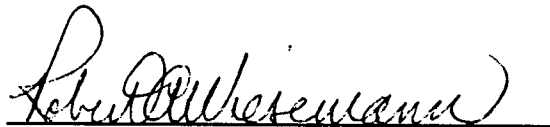
AFFIDAVIT

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:

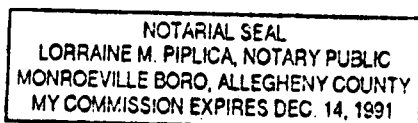


Robert A. Wiesemann, Manager
Regulatory and Legislative Affairs

Sworn to and subscribed
before me this 7th day
of November, 1988.



Notary Public



Member, Pennsylvania Association of Notaries

- (1) I am Manager, Regulatory and Legislative Affairs, in the Nuclear and Advanced Technology Division, of the Westinghouse Electric Corporation 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 rulemaking proceedings, and am authorized to apply for its withholding on behalf of the Westinghouse Energy Systems, Nuclear Fuel, and Power Generation Business Units.
- (2) I am making this Affidavit in conformance with the provisions of 10CFR Section 2.790 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 the Westinghouse Energy Systems, Nuclear Fuel, and Power Generation Business Units 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 2.790 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.
- (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 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 10CFR 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 "Technical Justification for Eliminating Large Primary Loop Pipe Rupture as the Structural Design Basis for Sequoyah Units 1 & 2", WCAP 12011, Proprietary, being transmitted by Tennessee Valley Authority (TVA) letter and Application for Withholding Proprietary Information from Public Disclosure, R. L. Gridley (TVA), to Jack Donohew (NRC), November, 1988. The proprietary information as submitted for use by Tennessee Valley Authority for Sequoyah Units 1 & 2 is expected to be applicable in other licensee submittals in response to certain NRC requirements for justification, for the application of Leak-Before-Break (LBB) technology to certain Class 1 piping.

Public disclosure of this information is likely to cause substantial harm to the competitive position of Westinghouse because it would simplify design and evaluation tasks without requiring a commensurate investment of time and effort.

The subject information could only be duplicated by competitors if they were to invest time and effort equivalent to that invested by Westinghouse provided they have the requisite talent and experience.

Further the deponent sayeth not.

Attachment B

WCAP-10976, Supplement 1
"Additional Information in Support of the
Technical Justification for Eliminating Large Primary Loop Pipe
Rupture as the Structural Design Basis for Indian Point Unit No. 2"
(Non-Proprietary), January 1989.

Consolidated Edison Company of New York, Inc.
Indian Point Unit No. 2
Docket No. 50-247
January, 1989