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Your ref: Docket No. 52-006  
Our ref: DCP\_NRC\_002825

March 19, 2010

Subject: Closure Basis for Proprietary Status of AP1000 Shield Building Reports per 10 CFR 2.390

*References:*

- 1. DCP\_NRC\_002618, dated 9/14/09, re: Notification of Proprietary Status, Submittal of Design Methodology for AP1000 Enhanced Shield Building - dated August 31, 2009 (APP-1200-S3R-003, Rev. 0)*
- 2. DCP\_NRC\_002606, 8/31/09, re: Submittal of Design Methodology for AP1000 Enhanced Shield Building (APP-1200-S3R-003, Rev. 0)*
- 3. DCP/NRC2489, dated 5/22/09, re: Submittal of Proprietary Responses to Action Items from the March 19 and 19, 2009 Meeting Regarding AP1000 Shield Building Design*
- 4. NRC Fax Letter dated 10/15/09, re: NRC Determination on Proposed Design and Specific Modifications for the AP1000 Shield Building*
- 5. NRC Letter dated 12/10/09 (ADAMS Accession #ML093240354) to J. Gresham of Westinghouse, re: Response to Requests for Withholding of Proprietary Information In Accordance With 10 CFR Part 2, Section 2.390*

The NRC transmitted a letter (Reference 5) that identified seven withholding requests from Westinghouse that could not be dispositioned because Westinghouse did not provide sufficient information for NRC decision on a determination of withholding. The seventh item was identified as Westinghouse letter DCP/NRC2489 (Reference 2), "Submittal of Proprietary Responses to Action Items from the March 19 and 19, 2009 Meeting Regarding AP1000 Shield Building Design," ADAMS Accession Number ML091480388. Westinghouse acknowledges that the report was not marked with the typical brackets and reasons for withholding of Proprietary material and was not accompanied by a non-Proprietary version. A supplemental letter (Reference 1) was sent to NRC that reaffirmed the Proprietary status of the report, and confirmed that no Non-Proprietary version would be submitted. This remains our current position as described below.

Westinghouse is submitting this correspondence to NRC as a formal re-notification (Reference 1) with additional clarification to close the 10 CFR 2.390 questions posed by the NRC regarding the status of the referenced shield building reports as submitted. Both the approved report (Reference 2) and the draft report (Reference 3) as submitted have been re-reviewed and determined to be Proprietary in their entirety

and did not include the typical proprietary bracket annotations. Some sections of the approved report contain Security Related Information (SRI) which was identified by bracketing. Therefore, a non-proprietary version of the reports is not required and will not be provided by Westinghouse.

In addition, these shield building documents contain evolutionary design and analysis concepts that remain under intense review by all parties. Since the initial NRC acceptance review, decisions, and comments noted in Reference 4; Westinghouse has continued to make additional shield building design, analysis, and testing modifications. These have been described during several public and non-public meetings using proprietary and non-proprietary presentation materials. During these events, the public has requested selected information; and the NRC has responded based on the Proprietary status suggested and annotated by Westinghouse as submitted to the NRC in the applicable submittals.

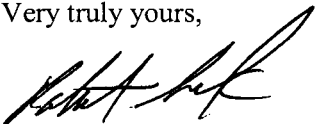
The approved report (Reference 2) submittal contained proprietary information of Westinghouse Electric Company, LLC. In conformance with the requirements of 10 CFR Section 2.390, as amended, of the Commission's regulations, an Application for Withholding and an Affidavit were submitted at that time. The Affidavit set forth the basis on which the information identified as proprietary may be withheld from public disclosure by the Commission. The information being redacted was of a type customarily held in confidence by Westinghouse and not customarily disclosed to the public. The justification for holding this information proprietary includes the following: (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, and (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.

Finally, Westinghouse expects to issue the final revised version of the enhanced shield building design document(s) to the NRC in early 2010. As discussed with the staff, Westinghouse will appropriately review, mark, and submit these in both Proprietary and Non-proprietary formats consistent with information presented to date in the public meetings and according to 10 CFR 2.390 requirements.

Questions or requests for additional information related to content and preparation of this report should be directed to Robert Sisk, Manager AP1000 Licensing and Customer Interface, Westinghouse Electric Company, LLC, P.O. Box 355, Pittsburgh, Pennsylvania 15230-0355.

Please send copies of such questions or requests to the prospective applicants for combined licenses referencing the AP1000 Design Certification. A representative for each applicant is included on the cc: list of this letter.

Very truly yours,



Robert Sisk, Manager  
Licensing and Customer Interface  
Regulatory Affairs and Standardization

cc: F. Akstulewicz - U.S. NRC  
E. McKenna - U.S. NRC  
D. Jaffe - U.S. NRC  
B. Gleaves - U.S. NRC  
T. Spink - TVA  
P. Hastings - Duke Power  
R. Kitchen - Progress Energy  
A. Monroe - SCANA  
P. Jacobs - Florida Power & Light  
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R. Grumbir - NuStart