

November 19, 1990

Docket No. 50-305

Mr. Robert A. Wieseemann, Manager  
Regulatory & Legislative Affairs  
Westinghouse Electric Corporation  
P.O. Box 355  
Pittsburgh, Pennsylvania 15230-0355

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Docket File  
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JPartlow

Dear Mr. Wieseemann:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE

By your application dated September 17, 1990 (CAW-90-075) you submitted the Westinghouse report WCAP-12711, "Reevaluation of U-Bend Tube Fatigue for the Kewaunee Plant Steam Generators," and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790.

A letter and an affidavit from Westinghouse, the owner of the information, was included in your application. Westinghouse 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, 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.

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- (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 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 "Re-Evaluation of U-Bend Tube Fatigue For The Kewaunee Plant Steam Generators", WCAP-12711, (Proprietary), for Kewaunee Nuclear Power Plant, being transmitted by Wisconsin Public Service Corporation letter and Application for Withholding Proprietary Information from Public Disclosure, Kenneth H. Evers, Manager Nuclear Power, WPS, to the Document Control Desk, Attention Dr. Thomas Murley, September, 1990. The proprietary information as submitted for use by Wisconsin Public Service Corporation for the Kewaunee Nuclear Power Plant is expected to be applicable in other licensee submittals in response to certain NRC requirements for justification of actions to minimize the potential for rapidly propagating fatigue cracks causing a steam generator tube rupture.

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

- (a) Provide documentation of the analysis, methods, and testing for reaching a conclusion relative to the potential for denting induced fatigue degradation at the top tube support plate.

- (b) Establish the tube stiffness, frequency, and fluid-elastic stability ratios by dynamic analysis of various tubes.
- (c) Establish the effects on fluid-elastic instability of columnwise variations in anti-vibration bar insertion depths.
- (d) Establish the detailed flow conditions in the region of interest including flow velocities, densities, and void fractions.
- (e) Assist the customer to obtain NRC approval.

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.
- (b) Westinghouse can sell support and defense of the technology to its customers in the licensing process.

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 analytical documentation 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 Commission 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 for developing testing and analytical methods and performing tests.

Mr. Robert A. Wieseemann

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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 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.

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 should also 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:

Michael J. Davis, Project Manager  
Project Directorate III-3  
Division of Reactor Projects - III,  
IV, V and Special Projects  
Office of Nuclear Reactor Regulation

cc: See next page

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EMCB

EMurphy

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PD/PDIII-3

JHannon

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11/19/90

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DOCUMENT NAME: WCAP12711

Mr. Robert A. Wiesemann

-6-

cc: Mr. Ken H. Evers  
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Mr. Harold Reckelberg, Chairman  
Kewaunee County Board  
Kewaunee County Courthouse  
Kewaunee, Wisconsin 54216

Mr. Robert A. Wieseemann

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