



Friends of the Earth

FOIA/PA REQUEST

Case No.: 2011-0251
Date Rec'd: 6-15-11
Specialist: Dennis
Related Case: _____

June 10, 2011

U.S. Nuclear Regulatory Commission
FOIA/Privacy Act Officer
Mailstop: T-5 F09
Washington, DC 20555-0001

FOIA Request for "DCP NRC 003155 Proprietary Enclosures, "Presentation Slides "AP1000 Shield Building Design," from "Meeting with U.S. Nuclear Regulatory Commission's (NRC) Staff, on May 17, 2011"

To Whom it Concerns:

This is a request being filed under the Freedom of Information Act (FOIA), as amended.

I am filing this request as a duly authorized employee of Friends of the Earth, a legally registered non-profit environmental organization, with which I hold the title Southeastern Nuclear Campaign Coordinator. All information gathered under this request will be used for non-profit, public education purposes only, both in South Carolina and nation-wide.

I request that all fees associated with this request be waived given the non-profit educational and scientific use which will be made of the information. My organization and I will disseminate the information obtained under this request to the benefit of public understanding of the Nuclear Regulatory Commission's review process for the AP1000 reactor. I and my organization have a long-demonstrated ability to analyze and disseminate information to the public on the various nuclear programs, for non-profit, public interest use. I have recently been provided fee waivers in other FOIA requests to the NRC, thus establishing a basis for a similar fee waiver determination in this case.

The requested documents are an integral part of better public understanding of the NRCs review of the AP1000 reactor.

If the NRC maintains that the document is in any way proprietary and will be withheld in response to this request, I expect a full justification be made for such a claim and that applicable FOIA exemptions, Council on Environmental Quality regulations, as well as other applicable regulations be cited. Any earlier determination by NRC staff as to the proprietary nature of the document must be reconsidered given this request.

I maintain the right to appeal any aspect of your decisions regarding this request, particularly if a less than full justification is made concerning a claim that the document has any aspect that is claimed to be proprietary in nature.

1112 Florence Street ¹ Columbia, SC 29201
803.834.3084 phone & fax • tomclements329@cs.com • www.foe.org

The requested information which can be provided in printed form, via a CD or DVD, or via e-mail.

I request that the information be provided as it becomes available and that you do not wait until all the information is accumulated to provide it to me.

The NRC office to which this request applies is likely the Division of New Reactor Licensing in the Office of New Reactors.

So that you better understand the focus of this request, I am attaching a copy of an NRC letter of June 6, 2011 related to the requested document.

I hereby request the following document, including any attachments:

DCP_NRC_003155 Proprietary Enclosures, "Presentation Slides "AP1000 Shield Building Design" - from meeting with U.S. Nuclear Regulatory Commission's (NRC) staff, on May 17, 2011

Thank you very much for your timely attention to this FOIA request, which is important to public interest groups monitoring developments related to the ongoing review of the AP1000 reactor.

If you have further questions or want to discuss this request, please contact me at your convenience via telephone at 803-834-3084 or via e-mail at tomclements329@cs.com.

Sincerely,



Tom Clements
Southeastern Nuclear Campaign Coordinator

June 6, 2011

Mr. James A. Gresham, Manager
Regulatory Compliance
Westinghouse Electric Company, LLC
Suite 428
1000 Westinghouse Drive
Cranberry Township, PA 16066

SUBJECT: RESPONSE TO REQUESTS FOR WITHHOLDING OF PROPRIETARY INFORMATION IN ACCORDANCE WITH 10 CFR PART 2, SECTION 2.390, PRESENTATION SLIDES "AP1000 SHIELD BUILDING DESIGN," MEETING WITH U.S. NUCLEAR REGULATORY COMMISSION'S STAFF, ON MAY 17, 2011 (DCP_NRC_003169)

Dear Mr. Gresham:

By letter dated May 16, 2011, Westinghouse Electric Company, LLC (Westinghouse) submitted an affidavit dated May 16, 2011, executed by Mr. R. F. Ziesing, which requested that the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

DCP_NRC_003155 Proprietary Enclosures, "Presentation Slides "AP1000 Shield Building Design," Meeting with U.S. Nuclear Regulatory Commission's (NRC) Staff, on May 17, 2011

Non-proprietary copies of the enclosures have been placed in the NRC's Public Document Room and added to the Agency wide Documents Access and Management System Public Electronic Reading Room.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (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; 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 of a similar product.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure. Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

J. A. Gresham

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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 also should 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.

If you have any questions regarding this matter, I may be reached at 301-415-2783.

Sincerely,

/RA/

Sikhindra K. Mitra, Project Manager
AP1000 Projects Branch 2
Division of New Reactor Licensing
Office of New Reactors

Docket No. 52-006

cc: See next page