

PROPRIETARY



**Nuclear Innovation**  
North America LLC  
4000 Avenue F, Suite A  
Bay City, Texas 77414

August 16, 2011  
U7-C-NINA-NRC-110110  
10 CFR 2.390

U. S. Nuclear Regulatory Commission  
Attention: Document Control Desk  
One White Flint North  
11555 Rockville Pike  
Rockville MD 20852-2738

South Texas Project  
Units 3 and 4  
Docket Nos. 52-012 and 52-013  
Transmittal of Time-History Data

At the request of the NRC Staff, enclosed is a compact disk (CD) that contains a copy of seismic time-history data utilized in the structural evaluation of the STP 3 & 4 spent fuel racks.

Please note that the information on the CD is proprietary to Westinghouse Electric Company, LLC. The attachment provides Westinghouse Authorization Letter CAW-11-3231, accompanying affidavit, Proprietary Information Notice, and Copyright Notice. The affidavit 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 Section 2.390 of the Commission's regulations. Accordingly, it is respectfully requested that the information which is proprietary to Westinghouse be withheld from public disclosure in accordance with 10 CFR 2.390 of the Commission's regulations. Correspondence with respect to the copyright or proprietary aspects of the items listed above or the supporting Westinghouse Affidavit should reference CAW-11-3231 and should be addressed to J. A. Gresham, Manager, Regulatory Compliance, Westinghouse Electric Company LLC, Suite 428, 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.

When separated from the CD, this letter and attachment are not proprietary.

There are no commitments in this letter.

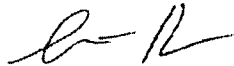
DO91  
NRD

STI 32916172

Should you have any questions, please contact me at (361) 972-7136, or Bill Mookhoek at (361) 972-7274.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8/16/11



Scott Head  
Manager, Regulatory Affairs  
South Texas Project Units 3 & 4

jaa

Attachment: CAW-11-3231, Affidavit for Withholding Confidential and Proprietary Information from Public Disclosure under 10 CFR 2.390

Enclosure: U7-C-NINA-NRC-110110, Digitized Time History Accelerations for Spent Fuel Rack Analysis - Baseline and Drift Corrected Baseline

cc: w/o attachment except\*  
(paper copy)

Director, Office of New Reactors  
U. S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852-2738

Regional Administrator, Region IV  
U. S. Nuclear Regulatory Commission  
611 Ryan Plaza Drive, Suite 400  
Arlington, Texas 76011-8064

Kathy C. Perkins, RN, MBA  
Assistant Commissioner  
Division for Regulatory Services  
Texas Department of State Health Services  
P. O. Box 149347  
Austin, Texas 78714-9347

Alice Hamilton Rogers, P.E.  
Inspection Unit Manager  
Texas Department of State Health Services  
P.O. Box 149347  
Austin, TX 78714-9347

\*Steven P. Frantz, Esquire  
A. H. Gutterman, Esquire  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Ave. NW  
Washington D.C. 20004

\*Rocky Foster  
Two White Flint North  
11545 Rockville Pike  
Rockville, MD 20852

(electronic copy)

\*George F. Wunder  
\*Rocky Foster  
Charles Casto  
U. S. Nuclear Regulatory Commission

Jamey Seely  
Nuclear Innovation North America

Peter G. Nemeth  
Crain, Caton & James, P.C.

Richard Peña  
Kevin Pollo  
L. D. Blaylock  
CPS Energy



Westinghouse Electric Company  
Nuclear Services  
1000 Westinghouse Drive  
Cranberry Township, Pennsylvania 16066  
USA

U.S. Nuclear Regulatory Commission  
Document Control Desk  
11555 Rockville Pike  
Rockville, MD 20852

Direct tel: (412) 374-4419  
Direct fax: (724) 720-0857  
e-mail: [maurerbf@westinghouse.com](mailto:maurerbf@westinghouse.com)  
WEC-NINA-2011-0024

CAW-11-3231

August 12, 2011

APPLICATION FOR WITHHOLDING PROPRIETARY  
INFORMATION FROM PUBLIC DISCLOSURE

**Subject:** Digitized Time History Accelerations for Spent Fuel Rack Analysis – Baseline and Drift  
Corrected Baseline – STP 3&4 RAI 09.01.02-9 (Proprietary)

The proprietary information for which withholding is being requested in the above-referenced document is further identified in Affidavit CAW-11-3231 signed by the owner of the proprietary information, Westinghouse Electric Company LLC. 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 10 CFR Section 2.390 of the Commission's regulations.

The subject document was prepared and classified as Westinghouse Proprietary Class 2. Westinghouse requests that the document be considered proprietary in its entirety. As such, a non-proprietary version will not be issued.

Accordingly, this letter authorizes the utilization of the accompanying affidavit by Nuclear Innovation North America (NINA).

Correspondence with respect to the proprietary aspects of this application for withholding or the accompanying affidavit should reference CAW-11-3231 and should be addressed to J. A. Gresham, Manager, Regulatory Compliance, Westinghouse Electric Company LLC, Suite 428, 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.

Very truly yours,

A handwritten signature in black ink, appearing to read 'B. F. Maurer', with a stylized flourish at the end.

B. F. Maurer, Manager  
ABWR Licensing

Enclosures

cc: R. Foster (NRC TWFN 6 D38M)

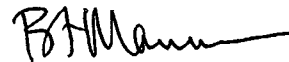
AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

SS

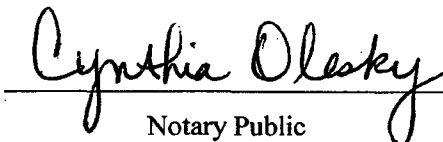
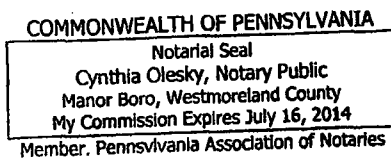
COUNTY OF BUTLER:

Before me, the undersigned authority, personally appeared B. F. Maurer, 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 Company LLC (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:



B. F. Maurer, Manager  
ABWR Licensing

Sworn to and subscribed before me  
this 12th day of August 2011

  
Notary Public

- (1) I am Manager, ABWR Licensing, in Nuclear Services, Westinghouse Electric Company LLC (Westinghouse), 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 rule making proceedings, and am authorized to apply for its withholding on behalf of Westinghouse.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.390 of the Commission's regulations and in conjunction with the Westinghouse Application for Withholding Proprietary Information from Public Disclosure accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by Westinghouse 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 2.390 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.

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 that 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 2.390; 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 "Digitized Time History Accelerations for Spent Fuel Rack Analysis – Baseline and Drift Corrected Baseline – STP 3&4 RAI 09.01.02-9" (Proprietary) for submittal to the Commission, being transmitted by Nuclear Innovation North America (NINA) letter and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted by Westinghouse is in response to the NRC's Request for Additional Information related to their review of the spent fuel rack analysis for STP 3&4.

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

- (a) Assist the customer in obtaining NRC review of the spent fuel rack structural analysis in support of the COL Application for STP 3&4.



Further this information has substantial commercial value as follows:

- (a) Westinghouse plans to sell the use of this information to its customers for purposes of plant specific spent fuel rack analysis for ABWR licensing basis applications.
- (b) Its use by a competitor would improve their competitive position in the design and licensing of a similar product for ABWR spent fuel rack analysis.
- (c) The information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by Westinghouse.

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 technical evaluations 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 NRC 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.

Further the deponent sayeth not.

### **PROPRIETARY INFORMATION NOTICE**

Transmitted herewith is the proprietary version of a document furnished to the NRC in connection with requests for generic and/or plant specific review and approval. The document is to be considered proprietary in its entirety.

### **COPYRIGHT NOTICE**

The report transmitted herewith bears a Westinghouse copyright notice. The NRC is permitted to make the number of copies of the information contained in this report which is necessary for its internal use in connection with generic and plant specific reviews and approvals as well as the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or regulation subject to the requirements of 10 CFR 2.390 regarding restrictions on public disclosure to the extent such information has been identified as proprietary by Westinghouse, copyright protection notwithstanding. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.