

December 9, 2011

MEMORANDUM TO: Robert Johnson, Chief
Fuel Manufacturing Branch
Fuel Facility Licensing Directorate
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards

FROM: Lydia Chang, Chief **/RA/**
Special Projects Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: ASSESSMENT OF TRANSFER OF CONTROL AT
WESTINGHOUSE

On September 20, 2011, the Fuel Manufacturing Branch, in the Division of Fuel Cycle Safety and Safeguards, requested the Special Projects Branch to review the transfer of control at Westinghouse from Shaw to Toshiba. The review done by the Special Projects Branch is enclosed. The Technical Assistance Request applied to the docket number below, but the staff review applies to all of licenses owned by Westinghouse.

Docket No.: 70-1151

Enclosure: Staff Memo

CONTACTS: Michael Purdie, FSME/DWMEP
(301) 415-0244

Kenneth Kline, FSME/DWMEP
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**Staff Memo in Response to
Westinghouse Electric Company LLC
Transfer of Control**

Background on Control of Westinghouse:

On April 21, 2006, Westinghouse Electric Company LLC (Westinghouse) submitted to U.S. Nuclear Regulatory Commission (NRC) an application for a transfer of indirect control from Westinghouse to Toshiba Corporation (Toshiba) (Accession No. ML061160195). On September 15, 2006, NRC granted the transfer of indirect control of Westinghouse to Toshiba for all materials licenses, quality assurance program approvals, and certificates of compliance. The staff noted, "Toshiba will maintain control of Westinghouse at all times after the closing through its ownership of at least 51% of a newly-created intermediate holding company called Toshiba Nuclear Energy Holdings (USA)" (Accession No. ML062560313).

On September 6, 2011 (Accession No. ML112630433), Westinghouse notified NRC that Toshiba is planning to "acquire 20 percent stake in Westinghouse currently held by Shaw Group (Shaw), a move that will increase Toshiba's overall ownership stake to 87 percent." No schedule has been provided to the staff.

Discussion:

As indicated above, NRC has already granted indirect control of Westinghouse to Toshiba in 2006. Since Toshiba would only be increasing its ownership share of Westinghouse and, therefore, no transfer of indirect control is taking place, the staff finds no issue with Toshiba's potential acquisition of Shaw's ownership in Westinghouse. Because no change in control is taking place and no formal application for a change in control was submitted, the original commitments provided by the licensee and approved by the NRC staff would still hold (Accession No. ML062560377).

Parent Company Guarantee:

In a letter dated August 29, 2011, NRC approved of a Parent Company Guarantee (PCG) for providing decommissioning financial assurance for Westinghouse licenses with Toshiba being the ultimate parent company (Accession No. ML112030289). The staff's findings were enclosed in a Safety Evaluation Report (SER) (Accession No. ML112350842). Because Shaw was not the ultimate parent company, the staff finds no conflict with respect to the PCG and Toshiba acquiring Shaw's stake in Westinghouse.

Enclosure