



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 26, 2013

Mr. Rafael Flores
Senior Vice President and
Chief Nuclear Officer
Attention: Regulatory Affairs
Luminant Generation Company LLC
P.O. Box 1002
Glen Rose, TX 76043

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
(TAC NOS. MF1365 AND MF1366)

Dear Mr. Flores:

By letter dated March 28, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13095A023), you submitted an affidavit to the U.S. Nuclear Regulatory Commission (NRC) dated March 18, 2013, executed by Mr. James A. Gresham, Manager, Regulatory Compliance, Westinghouse Electric Company (Westinghouse), requesting that the information contained in the following document (designated as Enclosure 2 to the letter dated March 28, 2013) be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

WCAP-17728-P, Revision 0, "Comanche Peak Nuclear Power Plant Units 1 and 2 Spent Fuel Pool Criticality Safety Analysis," March 2013 (Proprietary)

The document was submitted in support of license amendment request 13-01 for revision to the Comanche Peak Nuclear Power Plant (CPNPP), Units 1 and 2, Technical Specifications (TSs) 3.7.16, "Fuel Storage Pool Boron Concentration," 3.6.17, "Spent Fuel Assembly Storage," 4.3, "Fuel Storage," and 5.5, "Programs and Manuals." A non-proprietary version of the document, designated as Enclosure 3 to the letter dated March 28, 2013, was also submitted and is available in ADAMS Accession No. ML13095A024.

In the affidavit dated March 18, 2013, Mr. Gresham stated that the submitted information should be considered exempt from the mandatory public disclosure for the following reasons:

- (a) The information reveals the distinguishing aspects of a process (or a 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.
- (c) Its use by 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.

The NRC staff has reviewed your application and all of the supporting information in accordance with the requirements of 10 CFR 2.390 and have concluded that you have not provided sufficient justification for us to determine that (1) the information sought to be withheld from public disclosure contains proprietary information providing Westinghouse a competitive advantage over its competitor and (2) its use by the competitors would put Westinghouse at a competitive disadvantage by reducing its expenditure of resources.

The regulations in 10 CFR 2.390(b)(4) state that while making a determination whether the information is considered proprietary or not, the Commission will consider the following:

- (i) Whether the information has been held in confidence by its owner;
- (ii) Whether the information is of a type customarily held in confidence by its owner, and except for voluntarily submitted information, whether there is a rational basis therefor;
- (iii) Whether the information was transmitted to and received by the Commission in confidence;
- (iv) Whether the information is available in public sources and;
- (v) Whether public disclosure of the information sought to be withheld is likely to cause substantial harm to the competitive position of the owner of the information, taking into account the value of the information to the owner; the amount of effort or money, if any, expended by the owner in developing the information; and the ease or difficulty with which the information could be properly acquired or duplicated by others.

The NRC staff has reviewed the information claimed as proprietary and determined that the methodology used for performing CPNPP, Units 1 and 2, Spent Fuel Pool Criticality Analysis and SCALE Version 5.1 Code Validation is based on publicly available documents such as NUREG/CR-6698, "Guide for Validation of Nuclear Criticality Safety Calculational Methodology," January 2001 (ADAMS Accession No. ML050250061), and NUREG/CR-6979, "Evaluation of the French Haut Taux de Combustion (HTC) Critical Experiment Data," September 2008 (ADAMS Accession No. ML082880452). Some of the other information claimed as proprietary is publicly available in the licensing basis documents for CPNPP, Units 1 and 2. Hence, the NRC staff has concluded that it does not meet the threshold for 10 CFR 2.390(b)(4)(iv).

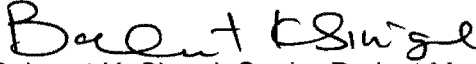
Also, the NRC staff has concluded that the use of the information from publicly available documents, such as NUREG/CR-6698 and NUREG/CR-6979, is not likely to cause substantial harm to the competitive position of Westinghouse, if a similar methodology is developed by the Westinghouse competitor. Westinghouse did not spend any resources to develop these documents. The NRC staff concludes that a competitor can reasonably develop a similar methodology without much difficulty by use of the information claimed as proprietary from publicly available documents. Hence, the Westinghouse claim does not meet the requirements of 10 CFR 2.390(b)(4)(v).

Accordingly, the NRC staff has concluded that the information sought to be withheld from public disclosure does not meet the requirements of 10 CFR 2.390. Therefore, your request to withhold WCAP-17728-P, Revision 0, March 2013, from public disclosure is denied.

Within 30 days from the receipt of this letter, the subject documents will be placed in the NRC's Public Document Room. If, within 30 days of the receipt of this letter, you request withdrawal of the documents in accordance with 10 CFR 2.390(c), your request will be considered in light of applicable statutes and regulations and a determination made whether the documents will be withheld from public disclosure and returned to you.

If you have any questions, please call me at 301-415-3016 or via e-mail at Balwant.Singal@nrc.gov.

Sincerely,


Balwant K. Singal, Senior Project Manager
Plant Licensing Branch IV
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-445 and 50-446

Enclosure

cc: J. A. Gresham, Manager
Regulatory Compliance
Westinghouse Electric Company
Nuclear Services
1000 Westinghouse Drive
Cranberry Township, PA 16066

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Sincerely,
/RA/
 Balwant K. Singal, Senior Project Manager
 Plant Licensing Branch IV
 Division of Operating Reactor Licensing
 Office of Nuclear Reactor Regulation

Docket Nos. 50-445 and 50-446

Enclosure

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 Regulatory Compliance
 Westinghouse Electric Company
 Nuclear Services
 1000 Westinghouse Drive
 Cranberry Township, PA 16066

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ADAMS Accession No. ML13253A006

OFFICE	NRR/DORL/LPL4/PM	NRR/DORL/LPL4/LA	NRR/DSS/SRXB/BC
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DATE	9/24/13	9/10/13	9/13/13
OFFICE	OGC	NRR/DORL/LPL4/BC	NRR/DORL/LPL4/PM
NAME	Charles Mullin	MMarkley (FCLyon for)	BSingal
DATE	9/23/13	9/24/13	9/26/13

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