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October 17, 2012

Director, Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852-2738

Mail Stop: T 2 F1

Subject: Purchase by Toshiba Corporation of The Shaw Group Indirect Ownership Interest in Westinghouse Electric Company LLC – Licenses: SNM-1107, Docket No.: 70-115 and SNM-33, Docket No. 70-33

United States Nuclear Regulatory Commission Official Hearing Exhibit	
In the Matter of: NUCLEAR INNOVATION NORTH AMERICA LLC (South Texas Project Units 3 and 4)	
	ASLBP #: 09-885-08-COL-BD01
	Docket #: 05200012 05200013
	Exhibit #: NRC000127-00-BD01
	Admitted: 1/6/2014
	Rejected:
Other:	Identified: 1/6/2014 Withdrawn: Stricken:

Gentlemen and Ladies:

In connection with the planned acquisition of the Westinghouse business by Toshiba Corporation (“Toshiba”), on April 21, 2006, Westinghouse Electric Company LLC (“Westinghouse”) submitted to the U.S. Nuclear Regulatory Commission (“NRC”) an application for consent to the transfer of indirect control of Westinghouse from British Nuclear Fuels plc to Toshiba (Accession No. ML061160195). On September 15, 2006, NRC granted its consent to the transfer of indirect control of Westinghouse to Toshiba for all materials licenses, quality assurance program approvals, and certificates of compliance. In its consent, NRC noted that Toshiba would maintain control of Westinghouse at all times after the closing through its ownership of at least 51% of a newly-created intermediate holding company. (Accession No. ML062560313).

Since the closing of the Westinghouse acquisition in October 2006, Toshiba has continued to maintain control of Westinghouse. Toshiba currently has an indirect 67% majority interest in Westinghouse, while The Shaw Group Inc. (“Shaw”) holds a 20% indirect minority interest. In September 2011, each of Toshiba and Shaw announced that Shaw intended to sell its 20% indirect interest in Westinghouse back to Toshiba. At that time, the Fuel Manufacturing Branch, in the Division of Fuel Cycle Safety and Safeguards, requested the Special Projects Branch to review the transaction. The staff prepared a Memo in Response which concluded that 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.” A copy of the staff memo is attached for your convenience.

Further, in a letter dated August 29, 2011, NRC approved a Parent Company Guarantee (“PCG”) for providing decommissioning financial assurance for Westinghouse licenses with Toshiba being the ultimate parent company (Accession No. ML112030289). That PCG continues to be in place.

This letter is to advise NRC that on October 6, 2012, Shaw, through its special purpose subsidiary Nuclear Energy Holdings L.L.C. (“NEH”), exercised its rights under that certain Put Option Agreement entered into between Toshiba and Shaw in connection with the Westinghouse acquisition to require Toshiba to purchase Shaw’s 20% indirect ownership interest in Westinghouse. Under the terms of the put option, closing of the sale back to Toshiba is expected to occur in January 2013. There will be no change to Westinghouse’s operations, corporate structure, key operating personnel or licensed activities as a result of the purchase by Toshiba of Shaw’s 20% indirect interest, and Westinghouse will continue to be the holder of the licenses, approvals, and certificates currently held by Westinghouse.

October 17, 2012
Page 2

Please advise if any further information is required.

Very truly yours,



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/attachment

cc: David J. Precht
Gerard F. Couture
Robert D. Copp
Leslie C. Kass
Kazuo Nakajima, Toshiba Corporation
Christopher Ryder, NRC

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

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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