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LTR-NRC-14-61

September 9, 2014

Subject: Submittal of "Westinghouse Review of Draft NRC Audit Report Regarding Indian Point Nuclear Generating Units Nos. 2 and 3" (Proprietary)

References:

1. NRC Letter, "Review of Draft Audit Report Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 License Renewal Application (TAC Nos. MD5408 and MD5408), ML14206B174," August 14, 2014

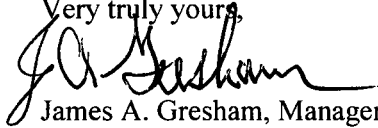
Enclosed is a copy of LTR-RIAM-14-84, Revision 0, "Westinghouse Review of Draft NRC Audit Report Regarding Indian Point Nuclear Generating Units Nos. 2 and 3," August 28, 2014. This report responds to a Nuclear Regulatory Commission request (Reference 1) that Westinghouse review the draft audit report transmitted by the reference to determine if it contained any proprietary information.

Also enclosed is:

1. One (1) copy of the Application for Withholding Proprietary Information from Public Disclosure, AW-14-4028 (Non-Proprietary), with Proprietary Information Notice and Copyright Notice.
2. One (1) copy of Affidavit (Non-Proprietary).

This submittal contains proprietary information of Westinghouse Electric Company LLC. In conformance with the requirements of 10 CFR Section 2.390, as amended, of the Commission's regulations, we are enclosing with this submittal an Application for Withholding Proprietary Information from Public Disclosure and an Affidavit. The Affidavit sets forth the basis on which the information identified as proprietary may be withheld from public disclosure by the Commission.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse Affidavit should reference AW-14-4028 and should be addressed to James A. Gresham, Manager, Regulatory Compliance, Westinghouse Electric Company, 1000 Westinghouse Drive, Building 3 Suite 310, Cranberry Township, Pennsylvania 16066.

Very truly yours,  
  
James A. Gresham, Manager  
Regulatory Compliance

Enclosures



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AW-14-4028

September 9, 2014

APPLICATION FOR WITHHOLDING PROPRIETARY  
INFORMATION FROM PUBLIC DISCLOSURE

Subject: LTR-RIAM-14-84, Revision 0, Attachment A, "ADAMS ML14206B174 Enclosure,"  
(Proprietary)

Reference: Letter from James A. Gresham to Document Control Desk, LTR-NRC-14-61, dated  
September 9, 2014

The Application for Withholding Proprietary Information from Public Disclosure is submitted by Westinghouse Electric Company LLC (Westinghouse), pursuant to the provisions of paragraph (b)(1) of Section 2.390 of the Commission's regulations. It contains commercial strategic information proprietary to Westinghouse and customarily held in confidence.

The proprietary information for which withholding is being requested is identified in the proprietary version of the subject report. In conformance with 10 CFR Section 2.390, Affidavit AW-14-4028 accompanies this Application for Withholding Proprietary Information from Public Disclosure, setting forth the basis on which the identified proprietary information may be withheld from public disclosure. The information in brackets in LTR-RIAM-14-84, Revision 0, Attachment A (the draft audit report) is considered proprietary to Westinghouse as justified by Sections 4(ii)(a) and Sections 4(ii)(c) of the Affidavit. Note, Westinghouse did not use the customary superscripts on the proprietary brackets as the audit report is a Nuclear Regulatory Commission document rather than a Westinghouse document.

Accordingly, it is respectfully requested that the subject information which is proprietary to Westinghouse be withheld from public disclosure in accordance with 10 CFR Section 2.390 of the Commission's regulations.

Correspondence with respect to the proprietary aspects of the application for withholding or the accompanying Affidavit should reference AW-14-4028 and should be addressed to James A. Gresham, Manager, Regulatory Compliance, Westinghouse Electric Company, 1000 Westinghouse Drive, Building 3 Suite 310, Cranberry Township, Pennsylvania 16066.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Gresham', written over the typed name.  
James A. Gresham, Manager  
Regulatory Compliance

Enclosures

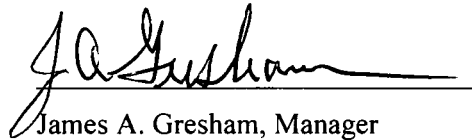
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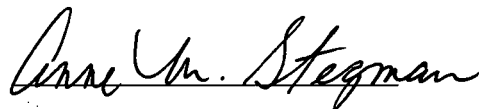
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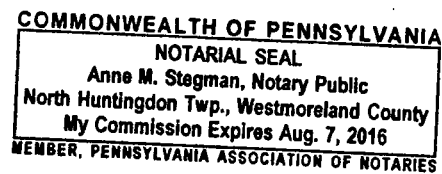
COUNTY OF BUTLER:

Before me, the undersigned authority, personally appeared James A. Gresham, 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:

  
James A. Gresham, Manager  
Regulatory Compliance

Sworn to and subscribed before me  
this 9th day of September 2014

  
Notary Public



- (1) I am Manager, Regulatory Compliance, 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 constitute Westinghouse policy and provide 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.
- (iii) 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.
- (vi) 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.
- (v) 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.
- (vi) The proprietary information sought to be withheld in this submittal is that which is appropriately marked in LTR-RIAM-14-84, Revision 0, Attachment A, "ADAMS ML14206B174 Enclosure," pages 1 through 5, (Proprietary), for submittal to the Commission, being transmitted by Westinghouse letter, LTR-NRC-14-61, and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted by Westinghouse is that associated with the NRC letter, "Review of Draft Audit Report Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 License Renewal Application (TAC Nos. MD5408 and MD5408)," ML14206B174, August 14, 2014, and may be used only for that purpose.

- (a) This information is part of that which will enable Westinghouse to:
  - (i) Support reactor vessel internals aging management.
- (b) Further this information has substantial commercial value as follows:
  - (i) Westinghouse plans to sell the use of the information to its customers for the purpose of supporting reactor internals aging management.
  - (ii) 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 evaluation justifications 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 a proprietary version of a document furnished to the NRC in connection with NRC letter, "Review of Draft Audit Report Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3 License Renewal Application (TAC Nos. MD5408 and MD5408)," ML14206B174, August 14, 2014, and may be used only for that purpose.

In order to conform to the requirements of 10 CFR 2.390 of the Commission's regulations concerning the protection of proprietary information so submitted to the NRC, the information which is proprietary is contained within brackets. The justification for claiming the information so designated as proprietary is identified in the AW-14-4028 withholding request. These justifications refer to the types of information Westinghouse customarily holds in confidence identified in Sections (4)(ii)(a) through (4)(ii)(f) of the Affidavit accompanying this transmittal pursuant to 10 CFR 2.390(b)(1).

## **COPYRIGHT NOTICE**

The report transmitted herewith each bear a Westinghouse copyright notice. The NRC is permitted to make the number of copies of the information contained in this report which are 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. With respect to the non-proprietary versions of these reports, the NRC is permitted to make the number of copies beyond those necessary for its internal use which are necessary in order to have one copy available for public viewing in the appropriate docket files in the public document room in Washington, DC and in local public document rooms as may be required by NRC regulations if the number of copies submitted is insufficient for this purpose. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.