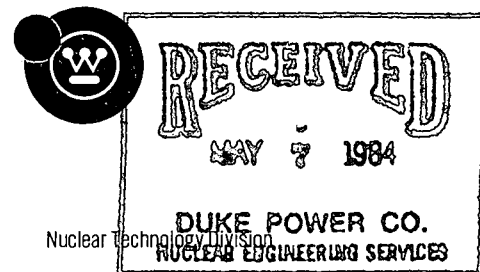


Westinghouse  
Electric Corporation

Water Reactor  
Divisions



Box 355  
Pittsburgh, Pennsylvania 15230

May 3, 1984

CAW-84-4

Mr. Harold R. Denton, Director  
Office of Nuclear Reactor Regulation  
Phillips Building  
7920 Norfolk Avenue  
Bethesda, Maryland 20014

APPLICATION FOR WITHHOLDING PROPRIETARY  
INFORMATION FROM PUBLIC DISCLOSURE

Reference: Duke Power Company letter dated April, 1984, transmitting  
Spent Fuel Consolidation Report Requested by NRC

Dear Mr. Denton:

The proprietary material for which withholding is being requested by the Duke Power Company is of the same type of material previously submitted and is further identified in an affidavit signed by the owner of the proprietary information, Westinghouse Electric Corporation. 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 specifically the considerations listed in paragraph (b)(4) of 10CFR Section 2.790 of the Commission's regulations.

This application for withholding is submitted by Westinghouse Electric Corporation ("Westinghouse") pursuant to the provisions of paragraph (b)(1) of Section 2.790 of the Commission's regulations. It contains commercial strategic information proprietary to Westinghouse and customarily held in our confidence.

The affidavit previously provided to justify withholding proprietary information in this matter was submitted as CAW-83-16 with Arkansas Power and Light letter, O-CAN028310, dated March 3, 1983, and is equally applicable to this material.

Accordingly, it is respectfully requested that the subject information, which is proprietary to Westinghouse, be withheld from public disclosure in accordance with 10CFR Section 2.790 of the Commission's regulations.

Accordingly, this letter authorizes the utilization of the accompanying affidavit in support of the Duke Power Company.

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P PDR

Mr. Harold R. Denton

-2-

May 3, 1984  
CAW-84-4

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-84-4, and should be addressed to the undersigned.

Very truly yours,

WESTINGHOUSE ELECTRIC CORPORATION



R. A. Wiesemann, Manager  
Regulatory & Legislative Affairs

/anj

cc: E. C. Shomaker, Esq.  
Office of the Executive Legal Director, NRC

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

SS

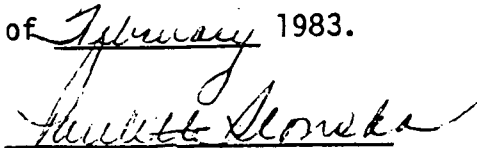
COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared E. P. Rahe, 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 Corporation ("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:



\_\_\_\_\_  
E. P. Rahe, Jr., Manager  
Nuclear Safety Department

Sworn to and subscribed  
before me this 21 day  
of February 1983.



Notary Public

BARBETE SLOWICKA, NOTARY PUBLIC  
MORRISVILLE BORO, ALLEGHENY COUNTY  
MY COMMISSION EXPIRES MARCH 10, 1986  
Member, Pennsylvania Association of Notaries

- (1) I am Manager, Nuclear Safety Department, in the Nuclear Technology Division, of Westinghouse Electric Corporation 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 or rule-making proceedings, and am authorized to apply for its withholding on behalf of the Westinghouse Water Reactor Divisions.
- (2) I am making this Affidavit in conformance with the provisions of 10CFR Section 2.790 of the Commission's regulations and in conjunction with the Westinghouse application for withholding accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by Westinghouse Nuclear Energy Systems 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 2.790 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.

- (g) It is not the property of Westinghouse, but must be treated as proprietary by Westinghouse according to agreements with the owner.

There are sound policy reasons behind the Westinghouse system which include the following:

- (a) The use of 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 which 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 in 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 10CFR Section 2.790, it is to be received in confidence by the Commission.
- (iv) The information sought to be protected is not available in public sources to the best of our knowledge and belief.
- (v) The proprietary information sought to be withheld in this submittal is that which is marked in the proprietary version of Westinghouse Drawings 6130E41 (Sheets 1 through 3) and 6130E44 (Sheets 1 through 4) and deleted from the non-proprietary versions of the same drawings.

This information provides details of equipment design and comprehensive plant data that were developed at significant expense. This information has substantial commercial value to Westinghouse in connection with competition with other vendors for service contracts and performance evaluations.

The subject information could only be duplicated by competitors if they were to invest time and effort equivalent to that invested by Westinghouse provided they have the requisite talent and experience.

Public disclosure of this information is likely to cause substantial harm to the competitive position of Westinghouse because it would simplify design and evaluation tasks without requiring a commensurate investment of time and effort.

Further the deponent sayeth not.

**DUKE POWER COMPANY**

P.O. BOX 33189  
CHARLOTTE, N.C. 28242

HAL B. TUCKER  
VICE PRESIDENT  
NUCLEAR PRODUCTION

TELEPHONE  
(704) 373-4531

June 12, 1984

Mr. Harold R. Denton, Director  
Office of Nuclear Reactor Regulation  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Attention: Mr. John F. Stolz, Chief  
Operating Reactors Branch No. 4

Subject: Oconee Nuclear Station  
Docket Nos. 50-269, -270, -287

Dear Sir:

By a letter dated February 22, 1982, Duke Power Company (Duke) had advised you of our intentions to participate with Westinghouse Electric Corporation (Westinghouse) in a demonstration program to consolidate four irradiated 15x15 Babcock and Wilcox (B&W) fuel assemblies at Oconee Nuclear Station (ONS). Preceding the February 22 letter was a presentation by Duke/Westinghouse to your staff on January 28, 1983 in Bethesda, Maryland providing a detailed overview of the spent fuel consolidation program and the necessary analysis supporting the program. A NRC letter dated May 26, 1982 provided the NRC's concurrence with our assessment in that there were no special technical or safety concerns related to this demonstration and, in addition, advised us of the necessity to comply with the provisions of 10 CFR Part 50.59. As a follow-up to our presentation and subsequent correspondence, enclosed please find twenty (20) proprietary copies of the final report concerning the performance of the demonstration program, and twenty (20) non-proprietary copies of this final report.

In conformance with the requirements of 10 CFR Section 2.790, as amended, of the Commission's regulations, Duke is enclosing with this submittal an application for withholding from public disclosure an affidavit. The affidavit sets forth the basis on which the information may be withheld from public disclosure by the Commission.

Correspondence with respect to the affidavit or application for withholding should reference CAW-84-4 and should be addressed to R. A. Wiesemann, Manager, Regulatory and Legislative Affairs, Westinghouse Electric Corporation, P. O. Box 355, Pittsburgh, Pennsylvania 15230.

As discussed in the report the demonstration was considered a success by both Duke and Westinghouse despite the occurrence of events considered to be "off-normal". As a result of the demonstration, Westinghouse and Duke both obtained a better understanding as to the requirements and limitations of this technology for future use.

The technical and economic advantages of rod consolidation make it a very desirable option for some utilities to utilize while awaiting the availability of government storage of spent fuel as mandated by the Waste Policy Act of 1982. The report provides useful background information concerning this technology, which will benefit the review process in any future licensing efforts.

NOTE: PDR  
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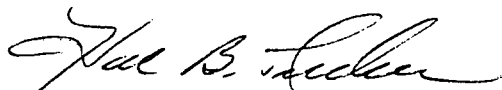
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Mr. Harold R. Denton  
June 12, 1984  
Page Two

As was discussed in our February 22 letter, Duke realizes that this was a small scale demonstration which would differ greatly from a full scale licensed consolidation effort. Nonetheless, it is hoped that Duke and/or other utilities will benefit from this initial demonstration if and when the need arises to pursue a license for the performance of a full scale rod consolidation program. This report and work it details can thus serve as a possible first step towards licensing this technology. This report is being provided for background information and to support any future licensing efforts that we or another utility may undertake.

Very truly yours,



Hal B. Tucker

PFG:dyh

Attachment

cc: J. P. O'Reilly, Regional Administrator  
U. S. Nuclear Regulatory Commission  
Region II  
101 Marietta Street, Suite 2900  
Atlanta, GA 30323

Helen Nicolaras  
Office of Nuclear Reactor Regulation  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555