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Cranberry Township, Pennsylvania 16066
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70-1151
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U.S. Nuclear Regulatory Commission
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LTR-NRC-17-1

January 3, 2017

Subject: Submittal of "November 28, 2016 Letter Regarding Standby Trust Agreement for License Numbers SNM-1107 and SNM-33" (Proprietary/Non-Proprietary)


By separate correspondence, the NRC has received a copy of a letter dated November 28, 2016 from the current Trustee of the decommissioning Trust Agreement for SNM-1107 and SNM-33 ("Letter"). A marked copy and a separate, non-proprietary version of the Letter are enclosed.

Also enclosed are:

1. An Application for Withholding Proprietary Information from Public Disclosure, AW-17-4527 with Proprietary Information Notice and Copyright Notice
2. An Affidavit (Non-Proprietary).

This submittal contains proprietary information of Westinghouse Electric Company LLC ("Westinghouse"). 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-17-4527 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.


James A. Gresham, Manager
Regulatory Compliance

Enclosures

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AW-17-4527

January 3, 2017

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Subject: November 28, 2016 Letter Regarding Standby Trust Agreement for License Numbers SNM-1107 and SNM-33 (Proprietary)

Reference: Letter from James A. Gresham to Document Control Desk, LTR-NRC-17-1, dated January 3, 2017

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 in the above-referenced report is further identified in Affidavit AW-17-4527 signed by the owner of the proprietary information, Westinghouse Electric Company LLC. 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 with specificity the considerations listed in paragraph (b)(4) of 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-17-4527 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.

James A. Gresham, Manager
Regulatory Compliance

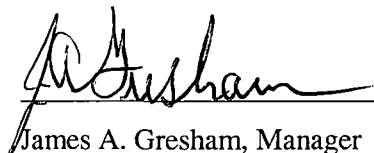
AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

ss

COUNTY OF BUTLER:

I, James A. Gresham, am 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 my knowledge, information, and belief.



James A. Gresham, Manager
Regulatory Compliance

Date: 1/3/17

- (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 Nuclear Regulatory Commission’s (“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.
- (iv) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.390, 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 marked and contained in the November 28, 2016 Letter Regarding Standby Trust Agreement for License Numbers SNM-1107 and SNM-33 sent to Westinghouse Electric Company LLC and the Commission (Proprietary), as described in Westinghouse letter, LTR-NRC-17-1. The proprietary information is that associated with the Standby Trust Agreement for SNM-1107 and SNM-33, and may be used only for that purpose.

Public disclosure of this proprietary information is likely to cause substantial harm to the competitive position of Westinghouse because it would reveal Westinghouse's confidential commercial arrangements with its creditors.

Further the deponent sayeth not.

PROPRIETARY INFORMATION NOTICE

Transmitted herewith are proprietary and non-proprietary versions of a document, furnished to the NRC in connection with the Westinghouse Fuel Fabrication Facility, SNM-1107 and the Hematite Decommissioning Project, SNM-33.

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 in the proprietary versions is contained within brackets, and where the proprietary information has been deleted in the non-proprietary versions, only the brackets remain (the information that was contained within the brackets in the proprietary versions having been deleted). The justification for claiming the information so designated as proprietary is indicated in the foregoing affidavit.

COPYRIGHT NOTICE

The reports transmitted herewith each bear a Westinghouse copyright notice. The NRC is permitted to make the number of copies of the information contained in these reports 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.

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[] a, c
Executive Director

November 28, 2016

Westinghouse Electric Company LLC
1000 Westinghouse Drive, Suite 572A
Cranberry Township, Pennsylvania 16066
Telephone No.: 412-374-4111

United States Nuclear Regulatory Commission
Washington, DC 20555-0001

VIA FEDEX

Re: Trust Agreement dated January 9, 2012, by and between Westinghouse Electric Company LLC ("Grantor") and [] as Trustee (the "Trust Agreement") related to License Numbers SNM-1107 and SNM-33. The United States Nuclear Regulatory Commission is the "Beneficiary" of the Trust Agreement.

Dear Ladies and Gentlemen:

Pursuant to Section 13 of the Trust Agreement [as supplemented by a Side Letter dated January 9, 2012], the Trustee hereby notifies you of its intent to resign as Trustee under the Trust Agreement and that such resignation shall be effective ninety (90) days after the date of this letter, on March 2, 2017.

Grantor has the right to appoint a successor trustee. Such successor trustee must accept the appointment, be ready to assume its duties as trustee, and the Beneficiary must agree, in writing, that the successor trustee is an appropriate Federal or State government agency or an entity that has the authority to act as a trustee and whose trust operation are regulated and examined by a Federal or State agency. Such appointment must become effective prior to March 2, 2017. If Grantor fails to provide the Trustee with a written notice instructing the Trustee to pay over all funds held in the trust fund to the successor Trustee prior to the close of business on March 2, 2017, then, as provided for in Section 13 of the Trust Agreement, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions.

If you have any questions, please do not hesitate to call []

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Sincerely,

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Executive Director

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