

August 23, 2017

Mr. Samuel Miranda
2212 Forest Glen Road
Silver Spring, MD 20910

Dear Mr. Miranda:

This letter responds to your January 25, 2017, Petition addressed to U.S. Nuclear Regulatory Commission (NRC) Executive Director for Operations (EDO), Victor M. McCree, regarding erroneous advice that Westinghouse Electric Corporation (Westinghouse a.k.a. Toshiba) has disseminated to its customers through its series of Nuclear Safety Advisory Letters (NSALs) (Agencywide Documents Access and Management System (ADAMS) Accession No. ML17027A063). Your Petition was supplemented by the following documents:

- transcript of your meeting with the Petition Review Board (PRB) on March 29, 2017 (ADAMS Accession No. ML17116A226) and
- transcript of your meeting with the PRB on May 23, 2017 (ADAMS Accession No. ML17157B165).

The EDO referred your Petition to the Office of Nuclear Reactor Regulation under Section 2.206, "Requests for action under this subpart," of Title 10 of the *Code of Federal Regulations* (10 CFR). In your Petition, you requested that the NRC take the following actions:

1. Publish a generic communication (e.g., GL) to inform licensees of problematic advice in Westinghouse NSALs (e.g., 93-013).
2. Revise applicable SRPs to alert NRC reviewers to licensees' implementations of certain, unacceptable items of advice from Westinghouse NSALs.
3. Require Westinghouse to submit all of its NSALs to NRC for information and review.
4. Require Westinghouse to make the applicable NSAL retractions, and revisions, and file relevant Part 21 reports.
5. Require Westinghouse to copy the NRC its distribution of future NSALs.
6. Fine Westinghouse an amount sufficient to reimburse NRC for taxpayers' money spent on review of LARs that were based on faulty advice in Westinghouse NSALs.
7. Fine Westinghouse an additional amount as penalty for longstanding, continuing deception.

As the basis for your request, you state that several of Westinghouse's customers have adopted some of Westinghouse's NSAL suggestions, and inserted them into their license amendment requests (LARs) for power uprating authorizations and other licensing actions. Furthermore, these LARs were accompanied by statements of no significant hazards, as per 10 CFR 50.92, made under Oath and Affirmation. Westinghouse, on the other hand, did not notify the NRC staff of any safety defects, under the terms of 10 CFR Part 21. You met with the NRC's PRB to discuss your Petition on March 29, 2017, and again on May 23, 2017. The PRB has considered those discussions in determining whether or not the Petition meets the criteria for consideration under 10 CFR 2.206.

After careful consideration, the PRB has concluded that your Petition does not meet the criteria for consideration under 10 CFR 2.206 because the issues you raised either do not request enforcement-related action or are associated with the same underlying technical bases for issues that have already been the subject of staff review, evaluation, and resolution and the petition does not present significant new information. The NRC staff has already reviewed issues raised in your November 15, 2016, Petition (ADAMS Accession No. ML17010A051) addressed to Victor M. McCree the EDO for the NRC, regarding Exelon Generation Company's Byron and Braidwood Stations (Byron/Braidwood) that were reviewed, evaluated, and resolved in the safety evaluation (SE) dated May 4, 2001 (ADAMS Accession No. ML033040016), the SE dated August 26, 2004 (ADAMS Accession No. ML042250531), and the report of the Backfit Appeal Review Panel (BARP) dated August 23, 2016 (ADAMS Accession No. ML16236A208). The enclosure to this letter provides further detail regarding the NRC's decision on your petition.

While not meeting the criteria for consideration under 10 CFR 2.206, consistent with the BARP report, the underlying technical issues raised in the petition appear to represent a conservative approach that could provide additional safety margin. By memorandum dated September 15, 2016 (ADAMS Accession No. ML16246A247), the NRC Executive Director for Operations tasked the Director of NRR to inform him of his plan to respond to assess pressurizer safety valve performance after water discharge and to assess RIS 2005-29, as well as its proposed Revision 1, through the appropriate generic process. By memorandum dated January 3, 2017 (ADAMS Accession No. ML16334A188), the Director of NRR provided the plan details and target dates for implementation of the plan. To the extent the issues in the petition are applicable to this plan, they will be considered during the plan implementation.

Thank you for bringing these issues to the attention of the NRC.

Sincerely,

/RA/

Michael King, Deputy Director
Division of Inspection and Regional Support
Office of Nuclear Regulatory Research

Enclosure:
As stated

S. Miranda

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SUBJECT: OEDO-17-00075 - CLOSURE LETTER FOR SAMUEL MIRANDA, CITIZEN, EMAIL RE: 2.206 – ENFORCEMENT PETITION REGARDING ADVICE THAT WESTINGHOUSE ELECTRIC CORPORATION (A.K.A. TOSHIBA) HAS DISSEMINATED TO ITS CUSTOMERS THROUGH ITS SERIES OF NUCLEAR SAFETY ADVISORY LETTERS DATED: AUGUST 23, 2017

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ADAMS Accession Nos.: Package (ML17187A168); Incoming (ML17027A063); *via e-mail; Closure Letter (ML17193A216) NRR-106

OFFICE	NRR/DPR/PLPB/PM	NRR/DPR/PLPB/LA*	Tech Editor(QTE)*	NRR/DSS/SRXB/BC*
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DATE	8/23/17	7/20/17	7/6/17	8/23/17
OFFICE	NRR/DIRS/DD			
NAME	MKing			
DATE	8/23/17			

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BASIS FOR NOT ACCEPTING THE PETITION REGARDING ADVICE THAT
WESTINGHOUSE ELECTRIC CORPORATION (A.K.A. TOSHIBA) HAS DISSEMINATED TO
ITS CUSTOMERS THROUGH ITS SERIES OF NUCLEAR SAFETY ADVISORY LETTERS

Petition Issue	Basis	Notes
Publish a generic communication (e.g., GL) to inform licensees of problematic advice in Westinghouse NSALs (e.g., 93-013).	Does not request enforcement-related action.	Publishing a generic communication to inform licensees is not an enforcement action.
Revise applicable SRPs to alert NRC reviewers to licensees' implementations of certain, unacceptable items of advice from Westinghouse NSALs.	Does not request enforcement-related action.	Revising the Standard Review Plan (SRP) is not an enforcement action.
Require Westinghouse to submit all of its NSALs to NRC for information and review.	Underlying issue previously resolved by NRC.	The same underlying technical basis for this issue has already been the subject of staff review, evaluation, and resolution, and the petition does not present significant new information.
Require Westinghouse to make the applicable NSAL retractions, and revisions, and file relevant Part 21 reports.	Underlying issue previously resolved by NRC.	The same underlying technical basis for this issue has already been the subject of staff review, evaluation, and resolution, and the petition does not present significant new information.
Require Westinghouse to copy the NRC on its distribution of future NSALs.	Underlying issue previously resolved by NRC.	The same underlying technical basis for this issue has already been the subject of staff review, evaluation, and resolution, and the petition does not present significant new information.
Fine Westinghouse an amount sufficient to reimburse NRC for taxpayers' money spent on review of LARs that were based on faulty advice in Westinghouse NSALs.	Underlying issue previously resolved by NRC.	The same underlying technical basis for this issue has already been the subject of staff review, evaluation, and resolution, and the petition does not present significant new information.

Petition Issue	Basis	Notes
Fine Westinghouse an additional amount as penalty for longstanding, continuing deception.	Underlying issue previously resolved by NRC.	The same underlying technical basis for this issue has already been the subject of staff review, evaluation, and resolution, and the petition does not present significant new information.