



Westinghouse Electric Company
1000 Westinghouse Drive
Cranberry Township, Pennsylvania 16066
USA

Ms. Margo L. Stevens
U.S. Nuclear Regulatory Commission
Document Control Desk
11555 Rockville Pike
Rockville, MD 20852

Direct tel: (412) 374-4643
Direct fax: (724) 940-8542
e-mail: greshaja@westinghouse.com

LTR-NRC-18-37

May 30, 2018

Subject: Response to Request for Document Review Associated with FOIA/PA-2018-000410

Dear Ms. Stevens:

By email dated May 3, 2018, Westinghouse Electric Company LLC ("Westinghouse") was invited to review three records (the "Documents") for confidential business or proprietary information prior to release by NRC pursuant to the Freedom of Information Act ("FOIA"). The records are: 1) a letter from Tom Dent of Westinghouse to Mark D. Rauckhost of Southern Company, dated April 25, 2012, with attachment; 2) two pages of information regarding the construction drawings for V.C. Summer, Unit 2; and 3) an undated confidential white paper titled, "The Case for Paradigm Shift." The Documents are marked as confidential and/or Westinghouse Proprietary.

This letter and the enclosure provide Westinghouse's timely response to that request. The Documents are proprietary and of the type customarily held in confidence. In addition, the Documents contain the names of individuals, which are personal privacy information. An affidavit for withholding of personal privacy information is not required, as provided by 10 CFR 2.390(b)(1)(ii).

In response to the questions asked in the email:

1. Was the information transmitted to, and received by, the NRC in confidence? Please give details as to the circumstances in which NRC obtained this information.

Westinghouse did not transmit this information to the NRC and therefore, it does not know how the NRC received it.

2. To the best of your knowledge, is the information currently available in any public sources?

Westinghouse has not disclosed the Documents to any public sources. To the extent that any third party came into possession of the documents and/or made them available publicly, they did so without authorization and potentially in an unlawful manner.

3. Does your company customarily treat this information, or this type of information, as confidential? Please explain why.

Yes. Westinghouse and its wholly-owned subsidiary, WECTEC Global Project Services, Inc. ("WECTEC"), customarily treat this type of information as confidential, as explained in the enclosed Application for Withholding Proprietary Information and its supporting affidavit. That affidavit describes the Westinghouse system used to determine when and whether to hold certain types of information in confidence. Under that system, Westinghouse has a rational basis for determining the type of information customarily held in confidence by it.

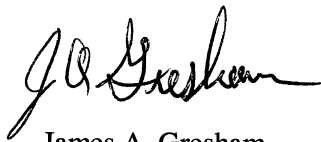
4. Would public disclosure of this information be likely to cause substantial harm to the competitive position of your company? If so, how?

Yes. Public disclosure of this information is likely to cause substantial harm to the competitive position of Westinghouse, as explained in the enclosed Application for Withholding Proprietary Information and its supporting affidavit.

5. Since this information was transmitted to the NRC, have any events altered the proprietary character of the information? If so, please explain.

No.

Correspondence with respect to the proprietary aspects of the Application for Withholding or the Westinghouse Affidavit should reference AW-18-4750, and should be addressed to James A. Gresham, Consulting Engineer, Licensing and Regulatory Affairs, Westinghouse Electric Company, 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.



James A. Gresham
Consulting Engineer,
Licensing and Regulatory Affairs

Enclosure

1. Application for Withholding Proprietary Information from Public Disclosure, AW-18-4750



Westinghouse Electric Company
1000 Westinghouse Drive
Cranberry Township, Pennsylvania 16066
USA

U.S. Nuclear Regulatory Commission
Document Control Desk
11555 Rockville Pike
Rockville, MD 20852

Direct tel: (412) 374-4643
Direct fax: (724) 940-8542
e-mail: greshaja@westinghouse.com

AW-18-4750

May 30, 2018

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Subject: FOIA/PA-2018-000410

Reference: Letter from James A. Gresham to Document Control Desk, LTR-NRC-18-37, May 30, 2018

This 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. The Documents covered by the Application, as described in the Reference, contain commercial strategic information proprietary to Westinghouse and customarily held in confidence.

The proprietary information for which withholding is being requested in the above-referenced reports is further identified in Affidavit AW-18-4750 signed by the owner of the proprietary information, Westinghouse. 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.

The subject Documents are classified as Westinghouse Proprietary Class 2. Westinghouse requests that the Documents be considered proprietary and confidential.

Correspondence with respect to the proprietary and confidential aspects of the Application for Withholding or the accompanying Affidavit should reference AW-18-4750, and should be addressed to James A. Gresham, Consulting Engineer, Licensing and Regulatory Affairs, Westinghouse Electric Company, 1000 Westinghouse Drive, Building 2, Cranberry Township, Pennsylvania 16066.

James A. Gresham, Consulting Engineer
Licensing and Regulatory Affairs

Enclosures:

1. Affidavit (Non-Proprietary)

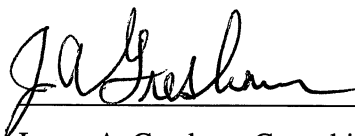
AFFIDAVIT

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.

A handwritten signature in black ink, appearing to read 'Ja Gresham', written over a horizontal line.

James A. Gresham, Consulting Engineer
Licensing and Regulatory Affairs

- (1) I am Consulting Engineer, Licensing and Regulatory Affairs 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.
- (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 and confidential information sought to be withheld is that which is contained in three documents: 1) a letter from Tom Dent of Westinghouse to Mark D. Rauckhorst of Southern Company, dated April 25, 2012, and attachment; 2) two pages of information regarding the construction drawings for V.C. Summer, Unit 2; and 3) an undated confidential white paper titled "The Case for Paradigm Shift." The proprietary and confidential information is that associated with the pending Freedom of Information ("FOIA") request submitted to the NRC, designated FOIA/NRC-2018-000410.
- (a) This information is part of that which will enable Westinghouse to support new reactor customer projects, including its nonconformance review process and incident investigation process.

- (b) Further, this information has substantial commercial value as follows:
- (i) Plans to sell the use of similar information to its customers for the purpose of plant construction and operation.
 - (ii) Westinghouse can sell support and defense of product development and maintenance.
 - (iii) 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.