



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

November 29, 1990

Docket Nos. 50-445  
and 50-446

Mr. Robert A. Wieseemann  
Manager of Regulatory & Legislative Affairs  
Westinghouse Electric Corporation  
P. O. Box 355  
Pittsburgh, Pennsylvania 15230-0355

Dear Mr. Wieseemann:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
(CAW-90-044)

By letter dated June 15, 1990, TU Electric submitted the Westinghouse report, "A Supplementary Assessment of Leak Before Break for the Pressurizer Surge Lines of Comanche Peak Unit 1," and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790.

A letter and an affidavit from Westinghouse, the owner of the information was included in the application. Westinghouse stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

"(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.

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- "(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 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 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 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.
  - "(iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR 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 or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
  - "(v) The proprietary information sought to be withheld in this submittal is that which is appropriately marked in "A Supplementary Assessment of Leak Before Break for the Pressurizer Surge Lines of Comanche Peak Unit 1", WCAP-12248, Supplement 3, (Proprietary), for Comanche Peak Unit 1, being transmitted by the Texas Utilities Electric Company (TU Electric) letter and Application for Withholding Proprietary Information from Public Disclosure, W. J. Cahill, Jr., Executive Vice President Engineering and Operations, TU Electric, NRC Document Control Desk, Attention Dr. Thomas Murley, June, 1990. The proprietary information as submitted for use by Texas Utilities Electric Company for the Comanche Peak Project is expected to be applicable in other licensee submittals in response to certain NRC requirements for justification of the integrity of the pressurizer surge line for its design life under thermal stratification conditions.
- "This information is part or that which will enable Westinghouse to:
- "(a) Provide documentation of the analyses and methodology used in the evaluation of the thermal stratification phenomenon.
  - "(b) Establish revised design transients for the pressurizer surge line based on plant monitoring data and Westinghouse test programs.
  - "(c) Demonstrate the structural integrity of the pressurizer surge line for the 40 year design life, and the acceptability of leak before break and fatigue crack growth, under thermal stratification conditions.
  - "(d) Demonstrate the low likelihood of stratification in the RHR lines, and the integrity of these lines in the event such a condition did exist.

"(e) Assist the customer in obtaining NRC approval.

"Further this information has substantial commercial value as follows:

"(a) Westinghouse plans to sell the use of similar information to its customers for purposes of demonstrating adequate design life for pressurizer surge lines.

"(b) Westinghouse can sell support and defense of the technology to its customers in the licensing process.

"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 analytical documentation 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 for the development, verification, and licensing of adequate methods for evaluation of this phenomenon."

We have reviewed your submittal and the material in accordance with the requirements of 10 CFR 2.790 and, on the basis of Westinghouse Electric Corporation's statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

Therefore, we have determined that the document entitled "A Supplementary Assessment of Leak Before Break for the Pressurizer Surge Lines of Comanche Peak Unit 1," marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the document. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You should also understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC needs additional information from you or makes a determination adverse to the above, you will be notified in advance of any public disclosure.

Sincerely,

(ORIGINAL SIGNED BY)

Eugene V. Imbro, Acting Director  
Project Directorate IV-2  
Division of Reactor Projects III/IV/V  
Office of Nuclear Reactor Regulation

cc: See next page

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