Westinghouse Electric Corporation Power Systems

Box 355
Pittsburgh Pennsylvania 15230

February 21, 1983

CAW-83-16

Mr. John F. Stolz, Chief
Operating Reactors Branch #4
Office of Nuclear Reactor Regulation
Phillips Building
7920 Norfolk Avenue
Bethesda, Maryland 20014

APPLICATION FOR WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE

Reference: Arkansas Power and Light Company letter to John F. Stolz, dated February, 1983.

Dear Mr. Stolz:

The proprietary material for which withholding is being requested by the Arkansas Power and Light Company 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.

Accordingly, this letter authorizes the utilization of the accompanying affidavit in support of the Arkansas Power and Light Company.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-83-16, and should be addressed to the undersigned.

Very truly yours,

R. A. Wiesemann, Manager
Regulatory and Legislative Affairs

/pj

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

CAW-83-16

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
PAMESTIE SLOMSKA, NOTARY PUBLIC
MONROEVILLE 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 hole 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.