



Westinghouse
Electric Corporation

Water Reactor
Divisions

Box 855
Pittsburgh Pennsylvania 15230

AW-82-73

December 23, 1982

Mr. Darrell G. Eisenhut, Director
Division of Project Management
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
7920 Norfolk Avenue
Bethesda, Maryland 20814

WESTINGHOUSE PREHEAT STEAM GENERATOR
D2/D3 DESIGN MODIFICATION EVALUATION PACKAGE
DECEMBER 1982

Ref: Westinghouse letter NS-EPR-2696, December 23, 1982

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Dear Mr. Eisenhut:

This application for withholding is submitted by Westinghouse Electric Corporation ("Westinghouse") pursuant to the provisions of paragraph (b) (1) of Section 2.790 of the Commission's regulations. It contains information proprietary to Westinghouse and customarily held in confidence.

The affidavit previously provided to justify withholding proprietary information in this matter was submitted as CAW-81-86, November 25, 1981 and is equally applicable to this material.

Accordingly, it is respectfully requested that the subject information which is proprietary to Westinghouse be withheld from public disclosure in accordance with 10CFR Section 2.790 of the Commission's regulations.

Correspondence with respect to this application for withholding or the accompanying affidavit should reference AW-82-73 and should be addressed to the undersigned.

Very truly yours,

Robert A. Wiesemann, Manager
Regulatory & Legislative Affairs

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PDR TOPRP EMVWEST
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/mv
Enclosure

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

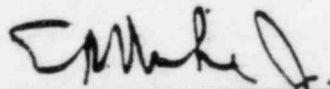
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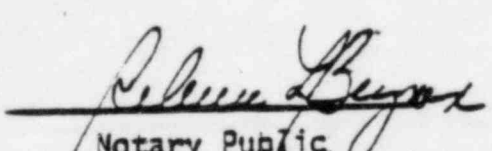
COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared E. P. Rahe, Jr., 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 25 day
of November 1981.


Notary Public

- (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 rulemaking 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 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.
- (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 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.
- (f) 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 Model D-3 Steam Generator Presentation Slides for the McGuire Unit 1 being transmitted by the Duke Power Company letter Application for Withholding Proprietary Information from Public Disclosure, Parker to Youngblood, December 1981. The proprietary information as submitted is expected to be applicable in other licensee and applicant submittals in response to certain NRC requirements for justification of the steam generator design and operation.

This information is part of that which will enable Westinghouse to:

- (a) Provide documentation of the analyses, method and testing for product design and operation.
- (b) Assist the customer to obtain NRC approval.

Further this information has substantial commercial value as follows:

- (a) Westinghouse plans to sell similar information to its customers for purposes of meeting NRC requirements for licensing documentation.
- (b) Westinghouse can sell support and defense of the technology to its customers in the licensing process.

Public disclosure of this 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 system design software development.

Further the deponent sayeth not.