

DCS MS-010

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Docket No. 50-336

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Mr. W. G. Council, Vice President
 Nuclear Engineering & Operations
 Northeast Nuclear Energy Company
 P. O. Box 270
 Hartford, Connecticut 06101

Dear Mr. Council:

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
 MILLSTONE NUCLEAR POWER STATION, UNIT 2

By your letter dated May 3, 1983, you submitted additional information concerning the Total Axial Shape Index utilized in Millstone Unit 2 safety analyses and requested that it be withheld from public disclosure pursuant to 10 CFR 2.790.

You stated that portions of Attachment 3 to your letter are proprietary to Westinghouse Electric Corporation and should be considered exempt from mandatory public disclosure for the following reasons given by Westinghouse in their affidavit:

- (a) The use of such information by Westinghouse gives Westinghouse a competitive advantage over its competitors. It is, therefore, withheld from public 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 a competitor would put Westinghouse at a competitive disadvantage by reducing his expenditure of resources at W 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.

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You also stated that other portions of Attachment 3 to your letter are proprietary to Combustion Engineering, Incorporated (CE), and should be considered exempt from mandatory public disclosure for the reason that public disclosure of the information is likely to cause substantial harm to CE's competitive position because:

- (a) A similar product is manufactured and sold by major pressurized water reactor competitors of Combustion Engineering.
- (b) Development of this information by CE required hundreds of manhours and tens of thousands of dollars. To the best of CE's knowledge and belief a competitor would have to undergo similar expense in generating equivalent information.
- (c) In order to acquire such information, a competitor would also require considerable time and inconvenience related to the development of the methods for evaluating safety system setpoints and their associated uncertainties.
- (d) The information required significant effort and expense to obtain the licensing approvals necessary for application of the information. Avoidance of this expense would decrease a competitor's cost in applying the information and marketing the product to which the information is applicable.
- (e) The information consists of methods for evaluating safety system setpoints and their associated uncertainties, the application of which provides a competitive economic advantage. The availability of such information to competitors would enable them to modify their product to better compete with Combustion Engineering, take marketing or other actions to improve their product's position or impair the position of Combustion Engineering's product, and avoid developing similar data and analyses in support of their processes, methods or apparatus.
- (f) In pricing Combustion Engineering's products and services, significant research, development, engineering, analytical, manufacturing, licensing, quality assurance and other costs and expenses must be included. The ability of Combustion Engineering's competitors to utilize such information without similar expenditure of resources may enable them to sell at prices reflecting significantly lower costs.
- (g) Use of the information by competitors in the international marketplace would increase their ability to market nuclear steam supply systems by reducing the costs associated with their technology development. In addition, disclosure would have an adverse economic impact on Combustion Engineering's potential for obtaining or maintaining foreign licensees.

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We have reviewed your letters and the enclosed material based on the requirements and criteria of 10 CFR 2.790 and, on the basis of the vendors' statements, have determined that the submitted information sought to be withheld contains trade secrets or proprietary commercial information.

It is our belief, pursuant to 10 CFR 2.790(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended, that, at this time, the right of the public to be fully apprised of the submitted information does not outweigh the need to protect the owners' competitive positions.

Accordingly, we have determined that the information should be withheld from public disclosure.

We, therefore, approve your request for withholding pursuant to 10 CFR 2.790 and are withholding Attachment 3 to your May 3, 1983 letter, "Request for Additional Information, Measurement Uncertainties, Response to Question 6", from public inspection as proprietary.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, insure 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, such as 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
Robert A. Clark

Robert A. Clark, Chief
Operating Reactors Branch #3
Division of Licensing

cc: See next page

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