



Westinghouse
Electric Corporation

Energy Systems

Box 355
Pittsburgh Pennsylvania 15230-0355

November 28, 1994
CAW-94-756

Document Control Desk
US Nuclear Regulatory Commission
Washington, DC 20555

Attention: Mr. W. T. Russell, Director

**APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE**

Subject: "Response to Nuclear Regulatory Staff Request for Additional Information on
VIPRE/WRB-2 DNBR Thermal Unit for Westinghouse 17x17 OFA and VANTAGE 5
Fuel," (Proprietary)

Dear Mr. Russell:

The proprietary information for which withholding is being requested in the above-referenced letter is further identified in Affidavit CAW-94-756 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 with specificity the considerations listed in paragraph (b)(4) of 10 CFR Section 2.790 of the Commission's regulations.

Accordingly, this letter authorized the utilization of the accompanying Affidavit by Commonwealth Edison Company.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-94-756, and should be addressed to the undersigned.

Very truly yours,

Nicholas J. Lipartilo, Manager
Nuclear Safety and Regulatory Activities

Enclosures

cc: M. P. Siemien, Esq.
Office of the General Counsel, NRC

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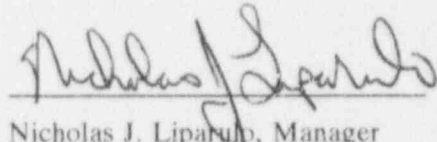
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COMMONWEALTH OF PENNSYLVANIA:

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COUNTY OF ALLEGHENY:

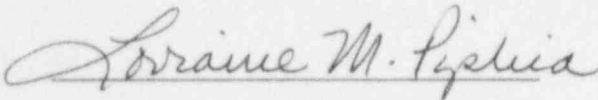
Before me, the undersigned authority, personally appeared Nicholas J. Liparulo, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Westinghouse Electric Corporation ("Westinghouse") and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:



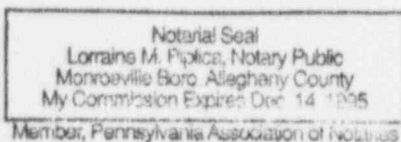
Nicholas J. Liparulo, Manager

Regulatory and Licensing Initiatives

Sworn to and subscribed

before me this 6th dayof December, 1994.

Notary Public



- (1) I am Manager, Nuclear Safety and Regulatory Activities, in the Nuclear and Advanced Technology Division, of the 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 and rulemaking proceedings, and am authorized to apply for its withholding on behalf of the Westinghouse Energy Systems Business Unit.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR 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 the Westinghouse Energy Systems Business Units 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:

- (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, "Response to Nuclear Regulatory Staff Request for Additional Information on VIPRE/WRB-2 DNBR Thermal Limit for Westinghouse 17x17 OFA and VANTAGE 5 Fuel," (Proprietary), November 15, 1994, for reproducing Westinghouse's methodology, being transmitted by the Commonwealth Edison Company (ComEd) letter and Application for Withholding Proprietary Information from Public Disclosure, S. Timac to the Attention of Mr. Russell, Director, Office of NRR. The proprietary information as submitted for use by the Commonwealth Edison Company for the Westinghouse reload cores is expected to be applicable in other licensee submittals in response to certain NRC requirements for justification of DNBR thermal limits.

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

- (a) Justify the thermal performance for reload cores.
- (b) Assist its customers to obtain licenses.
- (c) Optimize reactor design and performance while maintaining a high level of fuel integrity.

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 future fuel upgrades.
- (b) Westinghouse can sell support and defense of the product 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 improved core thermal performance methodology 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 developing the enclosed improved core thermal performance methodology.

Further the deponent sayeth not.

Proprietary Information Notice

Transmitted herewith are proprietary and/or non-proprietary versions of documents furnished to the NRC in connection with requests for generic and/or plant-specific review and approval.

In order to conform to the requirements of 10 CFR 2.790 of the Commission's regulations concerning the protection of proprietary information so submitted to the NRC, the information which is proprietary in the proprietary versions is contained within brackets, and where the proprietary information has been deleted in the non-proprietary versions, only the brackets remain (the information that was contained within the brackets in the proprietary versions having been deleted). The justification for claiming the information so designated as proprietary is indicated in both versions by means of lower case letters (a) through (f) located as a superscript immediately following the brackets enclosing each item of information being identified as proprietary or in the margin opposite such information. These lower case letters refer to the types of information Westinghouse customarily holds in confidence identified in Sections (4)(ii)(a) through (4)(ii)(f) of the affidavit accompanying this transmittal pursuant to 10 CFR 2.790(b)(1).

Copyright Notice

The reports transmitted herewith each bear a Westinghouse copyright notice. The NRC is permitted to make the number of copies for the information contained in these reports which are necessary for its internal use in connection with generic and plant-specific reviews and approvals as well as the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or regulation subject to the requirements of 10 CFR 2.790 regarding restrictions on public disclosure to the extent such information has been identified as proprietary by Westinghouse, copyright protection notwithstanding. With respect to the non-proprietary versions of these reports, the NRC is permitted to make the number of copies beyond these necessary for its internal use which are necessary in order to have one copy available for public viewing in the appropriate docket files in the public document room in Washington, DC and in local public document rooms as may be required by NRC regulations if the number of copies submitted is insufficient for this purpose. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.

Attachment B