



Westinghouse
Electric Corporation

Water Reactor
Divisions

Box 355
Pittsburgh Pennsylvania 15230

November 4, 1983
AW-83-84

Dr. Cecil O. Thomas, Chief
Special Projects Branch
Division of Project Management
U.S. Nuclear Regulatory Commission
Phillips Building
7920 Norfolk Avenue
Bethesda, Maryland 20014

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

SUBJECT: Response to Request for Additional Information on WCAP-8720,
Addendum 3, "Improved Analytical Models Used in Westinghouse
Fuel Rod Design Computations/Applications for BWR Fuel Analysis"

REF: Westinghouse Letter No. NS-EPR-2835, Rahe to Thomas, dated
November 4, 1983

Dear Dr. Thomas:

The proprietary material transmitted by the reference letter is of the same technical type as that material previously submitted concerning Westinghouse fuel performance code, PAD. The affidavit submitted to justify the material previously submitted, AW-76-21, June 11, 1976, is equally applicable to this material.

Accordingly, withholding the subject information from public disclosure is requested in accordance with the previously submitted affidavit, a copy of which is attached.

Correspondence with respect to this application for withholding or the accompanying affidavit should reference AW-83-84, and should be addressed to the undersigned.

Very truly yours,

Robert A. Wiesemann, Manager
Regulatory & Legislative Affairs

/kk
Attachment

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

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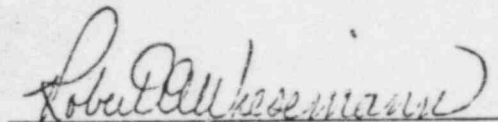
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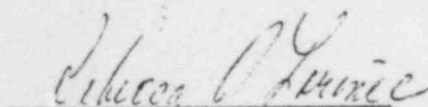
SS

COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared Robert A. Wiesemann, 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:


Robert A. Wiesemann, Manager
Licensing Programs

Sworn to and subscribed
before me this 11 day
of June 1976.


Notary Public

RECEIVED BY NOTARY PUBLIC

NOTARY COMMISSION EXPIRES MAY 15, 1978

- (1) I am Manager, Licensing Programs, in the Pressurized Water Reactor Systems 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 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 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 10 CFR Section 2.790, it is to be received in confidence by the Commission.
- (iv) The information 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 appropriately marked in the attachment to Westinghouse letter number NS-CE-1100, Eicheldinger to Vassallo, dated June 11, 1976, concerning THINC II/THINC IV code comparisons. The letter and attachment are being submitted in response to the NRC request at the 28, 1976 NRC/Westinghouse meeting.

This information enables Westinghouse to:

- (a) Justify the Westinghouse design correlations.
- (b) Assist its customers to obtain licenses.
- (c) Obtain preliminary design approvals.
- (d) Meet warranties.
- (e) Provide greater flexibility to customers assuring them of safe and reliable operation.
- (f) Reduce plant and fuel costs.

- (g) Optimize performance while maintaining high level of fuel integrity.

Further, the information gained from the THINC IV development program is of commercial value and is sold for considerable sums of money as follows:

- (a) Westinghouse sells the use of this information to foreign licensees.
- (b) Westinghouse uses the information to perform and justify analyses which are sold to customers.
- (c) Westinghouse sells testing services based upon the experience gained and the test equipment and methods developed.

Public disclosure of this information concerning THINC II/THINC IV code comparisons is likely to cause substantial harm to the competitive position of Westinghouse because competitors could utilize this information to assess and justify their own designs without commensurate expense.

The comparisons performed and their evaluation represent a considerable amount of highly qualified development effort. This work was contingent upon a THINC IV development program which has been underway during the past six years. Altogether, a substantial amount of money and effort has been expended

by Westinghouse which could only be duplicated by a competitor if he were to invest similar sums of money and provided he had the appropriate talent available.

Further the deponent sayeth not.