



September 8, 1995
NRC-95-0099

U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, D. C. 20555

- References:
- 1) Fermi 2
NRC Docket No. 50-341
NRC License No. NPF-43
 - 2) NRC letter, FOIA-95A2 (94-507), Powell to Gipson, dated
March 7, 1995
 - 3) Detroit Edison letter to NRC, "Response to Request Regarding
Proprietary Information Submitted to the NRC (FOIA-95A2
(94-507))", NRC-95-0057, dated
May 19, 1995
 - 4) NRC letter, FOIA 95-A-2 (94-507), Powell to Gipson, dated
August 16, 1995
 - 5) Detroit Edison letter to NRC, "Additional Justification to
Withhold Selected Proprietary Information from Public
Disclosure (FOIA-95-A-2) (94-507))", NRC-95-0098, dated
September 7, 1995

Subject: Supplemental Request to Withhold Selected Proprietary Information
from Public Disclosure (FOIA-95-A-2 (94-507))

After close of business on September 7, 1995, Westinghouse Electric Corporation sent the attached memo to Detroit Edison regarding their proprietary information. By this letter, Detroit Edison is forwarding the Westinghouse information to the NRC. This letter supplements the Detroit Edison response (Reference 5) to Reference 4.

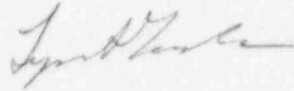
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There are no commitments being made in this letter. If there are any questions or additional information is needed, please contact me at (313) 586-4097.

Sincerely,



Lynne S. Goodman
Director, Nuclear Licensing

Attachment

cc: T. G. Colburn
M. J. Pool
A. Vogel
NRC Regional Administrator



Westinghouse
Electric Corporation

Christopher J. Flynn
Assistant General Counsel

Law and Environmental
Affairs Department

4400 Alafaya Trail
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September 7, 1995

FAX NO. (313)586-4208

Ms. Lynn S. Goodman
Director of Nuclear Licensing
Detroit Edison Fermi 2
6400 North Dixie Highway
New Port, Michigan 48166

Re: Your Letter of August 28, 1995

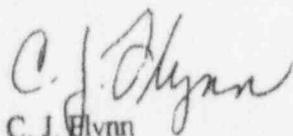
Dear Ms. Goodman:

Thank you for your letter of August 28, 1995, in which you inform Westinghouse that, via letter apparently received by you on August 22, the NRC does not agree that certain proprietary information, with respect to which Detroit Edison holds under an obligation of confidentiality to Westinghouse, is exempt from disclosure under the Freedom of Information Act (FOIA). Your letter also states that "Detroit Edison does not plan to take any additional actions on this matter." Westinghouse is disappointed with this decision, and believes Detroit Edison is obligated to pursue this matter further.

Under our agreement, it is Detroit Edison's responsibility to safeguard the proprietary information which has been entrusted to it by Westinghouse. At your request, Westinghouse explained its reasons for desiring that the requested information be withheld, to assist Detroit Edison in its efforts. Westinghouse believes then, and still believes, all of the information which it requested to be redacted is subject to exemption from FOIA disclosure, and expects Detroit Edison to continue its efforts accordingly.

Attached is a summary of the Westinghouse position on the matter. I hope you will find it helpful in dealing with this matter.

Very truly yours,


C. J. Flynn

Assistant General Counsel

cc: S. J. Demboski

ATTACHMENT

Re: FOIA-95-A-2 (94-507)

Westinghouse understands that Detroit Edison requested three general categories of information be redacted from the Westinghouse documents at issue. These were (1) technical information, calculations, data, and conclusions set forth in the "Westinghouse Evaluation of GEC Pressure Plates for DECO Fermi 2" document, (2) Names of other Westinghouse customers and plants where Westinghouse equipment was installed, and (3) personal information related to Westinghouse employees, including names and phone numbers. It appears that, for the most part, the NRC has agreed to redact "category 1" information, so this would appear to no longer be an issue.

With respect to "category 2", this information is exempt from disclosure as privileged and confidential "commercial information" pursuant to "Exemption 4" of FOIA. The names of Westinghouse customers and plants to which Westinghouse has sold equipment or performed services in general, and in particular in compilation form as many of the documents at issue are, is valuable commercial information to Westinghouse, and is maintained in confidence as such. Westinghouse's commercial customers and activities, including its contracts with those customers, are generally confidential and not a matter of public record. The customer or plant names clearly reflect Westinghouse's commercial activities and business base, which Westinghouse believes has value to its competitive position, and Westinghouse correspondingly would be disadvantaged if released to the public or its competitors.

Furthermore, the documents at issue reflect, in essence, historic operational data. Westinghouse, as with most businesses, generally treats its own information of that type as confidential. Obviously, if Westinghouse competitors or other parties knew the extent to which Westinghouse's own manufacturing plants and equipment have been operational, they would certainly have a great deal of insight into its capabilities in any given instance, and use that unfairly to their competitive advantage. Westinghouse can only assume the same to be true for the organizations named in the documents. Westinghouse does not disclose such information except, as in this case with Detroit Edison, under an obligation of confidentiality. Release of the information in unredacted form could certainly impact Westinghouse's ability to compile such information in the future for its own use and for the use of its customers, information which Westinghouse considers essential in enhancing its and its customers' competitive edge.

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Conversely, Westinghouse fails to see how the deletion of such information could possibly affect the "informational" aspects of the documents to be released.

As regards "category 3", the individuals involved in the preparation of the documents at issue prepared those in Westinghouse's employ, for limited distribution. Under no circumstances was it the intent that names and telephone numbers be released in general to the public. The need for disclosure under FOIA must be balanced against the effect on personal privacy of the individual. In this instance, Westinghouse cannot possibly see what value individual names and phone numbers may have in the context of the information requested. Westinghouse believes this information should be exempt from disclosure pursuant to "Exemption 6" of FOIA.