Westinghouse Electric Corporation
Energy Systems
Box 355
Pittsburgh Pennsylvania 15230-0355

August 6, 1992
CAW-92-342

Document Control Desk
US Nuclear Regulatory Commission
Washington, DC 20555

Attention: Dr. Thomas Murley, Director

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Subject: "Response to NRC Questions on the Farley Steam Generator Tube Alternate Plugging Criterion Presentation Materials" (WCAP-13464, Proprietary)

Dear Dr. Murley:

The proprietary information for which withholding is being requested in the above-referenced letter is further identified in Affidavit CAW-92-342 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 authorizes the utilization of the accompanying Affidavit by Southern Nuclear Operating Company.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-92-342, and should be addressed to the undersigned.

Very truly yours,

Peter J. Morris

Peter J. Morris, Manager
Strategic Safety and Regulatory Issues

/lg
Enclosures

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

CS41:RJM:050492

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CAW-92-342

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

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COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared Peter J. Morris, 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:

Peter J. Morris

Peter J. Morris, Manager
Strategic Safety and Regulatory Issues

Sworn to and subscribed
before me this 6th day
of August, 1992

Lorraine M. Pipilica

Notary Public

Notarial Seal
Lorraine M. Pipilica, Notary Public
Monroeville Boro, Allegheny County
My Commission Expires Dec. 14, 1995
Member, Pennsylvania Association of Notaries

0472C-RJM-1.080492

(1) I am Manager, Strategic Safety and Regulatory Issues, 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 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 the Westinghouse Energy Systems Business Unit 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.

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 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 10CFR 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 NRC Questions on the Farley Steam Generator Tube Alternate Plugging Criterion Presentation Material", WCAP-13464 (Proprietary), August, 1992 for Joseph M. Farley Units 1 and 2, being transmitted by the Southern Nuclear Operating Company (SNC) letter and Application for Withholding Proprietary Information from Public Disclosure, to Document Control Desk, Attention Dr. Thomas Murley. The proprietary information as submitted for use by Southern Nuclear Operating Company for the J. M. Farley Units 1 and 2 is

expected to be applicable in other licensee submittals in response to certain NRC requirements for justification of steam generator tube alternate plugging criterion.

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

(a) Provide documentation for steam generator tube alternate plugging criterion.

(b) Provide basis for the form of the leak rate correlation.

(c) Provide steamline break (SLB) leak rate analyses.

(d) Assist the customer in obtaining the NRC approval.

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 meeting 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 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 methodologies 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 testing and analytical methods and performing testing.

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 (g) contained within parentheses 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)(g) 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 of 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 not withstanding. With respect to the non-proprietary versions of these reports, the NRC is permitted to make the number of copies beyond those 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. The NRC is not authorized to make copies for the personal use of members of the public who make use of the NRC public document rooms. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.

RE: WCAP-13464 and WCAP-13465, "RESPONSE TO NRC QUESTIONS ON FARLEY STEAM GENERATOR TUBE ALTERNATE PLUGGING CRITERIA PRESENTATION MATERIALS."

AFFIDAVIT

I, ARTHUR KENNY, being duly sworn, depose and state as follows:

I am a Senior Licensing Administrator of the Electric Power Research Institute ("EPRI") and I have been specifically delegated responsibility for reviewing the report listed above that is sought under this affidavit to be withheld (the "Report") and authorized to apply for its withholding on behalf of EPRI. This affidavit is submitted to the Nuclear Regulatory Commission ("NRC") pursuant to 10 CFR 2.790 (a)(4) based on the fact that the Report consists of trade secrets of EPRI and that the NRC will receive the Report from EPRI under privilege and in confidence.

Westinghouse Electric Corporation ("Westinghouse") prepared the Report under contract to EPRI. Although Westinghouse is the author of the Report, Westinghouse has assigned to EPRI all right, title, and interest in the Report and in copyrights thereto, trade secrets contained therein, and all other intellectual property rights thereto. Westinghouse has placed proprietary markings on the report to protect EPRI's interests in the Report.

The basis for which the Report should be withheld from the public is set forth below:

(i) The Report has been held in confidence by EPRI, its owner. All those accepting the Report must agree to preserve the confidentiality of the Report.

(ii) The Report is of a type customarily held in confidence by EPRI and there is a rational basis therefor. The Report is trade secrets and is held in confidence by EPRI because to disclose it would prevent EPRI from licensing the Report at fees which would allow EPRI to recover its investment. If consultants and other businesses providing services in the nuclear power industry were able to publicly obtain the Report, they would be able to use it commercially for profit and avoid spending the large amount of money that EPRI was required to spend to prepare the Report. The rational basis that EPRI has for classifying the Report as trade secrets is the Uniform Trade Secrets Act which California adopted in 1984 and which has been adopted by over twenty states. The Uniform Trade Secrets Act defines a "trade secret" as follows:

> "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and

(2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(iii) The Report will be transmitted to the NRC in confidence.

(iv) The Report is not available in public sources. EPRI developed the Report only after making a determination that the Report was not available from public sources. It required a large expenditure of dollars for EPRI to develop the Report. In addition, EPRI was required to use a large amount of time of EPRI employees. The money spent, plus the value of EPRI's staff time in preparing the Report, show that the Report is highly valuable to EPRI. Finally, the Report was developed only after a long period of effort of at least several months.

(v) A public disclosure of the Report would cause substantial harm to EPRI's competitive position and the ability of EPRI to license the Report both domestically and internationally. The Report can be properly acquired or duplicated by others only with an equivalent investment of time and effort.

I have read the foregoing and the matters stated therein are true and correct to the best of my knowledge, information and belief. I make this affidavit under penalty of perjury under the laws of the United States of America and under the laws of the State of California.

Executed at 3412 Hillview Avenue, Palo Alto, being the premises and place of business of the Electric Power Research Institute:

August 10, 1992

Arthur Kenny

Subscribed and sworn before me this day:

NOTARY PUBLIC

State of California
County of Santa Clara

On August 10, 1992 before me, Terri L. Bekowies, personally appeared Arthur Kenny personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature Terri L. Bekowies (Seal)

OFFICIAL NOTARY SEAL
TERRI L. BEKOWIES
Notary Public — California
SANTA CLARA COUNTY
My Comm. Expires OCT 26 1994

Attachment 7

3. EPRI TR-100407, "PWR Steam Generator Tube Repair Limits: Technical Support Document for Outside Diameter Stress Corrosion Cracking at Tube Support Plates," (Proprietary).

4. EPRI TR-100407, "PWR Steam Generator Tube Repair Limits: Technical Support Document for Outside Diameter Stress Corrosion Cracking at Tube Support Plates," (Non-Proprietary).