Westinghouse Electric Corporation
Water Reactor Divisions

Box 355
Pittsburgh Pennsylvania 15230-0355

June 28, 1984
AW-85-043
Docket No. STN-50-601

Mr. Harold R. Denton, Director
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington D. C. 20555

APPLICATION FOR WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE

SUBJECT: Westinghouse Advanced Pressurized Water Reactor (WAPWR) Reference Safety Analysis Report, RESAR-SP/90, PDA Module 16, "Probabilistic Safety Study" (Volumes 1 and 2)

REFERENCE: Westinghouse Letter no. NS-NRC-85-3043, Rahe to Denton, dated June 28, 1985

Dear Mr. Denton:

This application for withholding is submitted by Westinghouse Electric Corporation ("Westinghouse") pursuant to the provisions of paragraph (b) (1) of Section 2.790 of the Commission's regulations. It contains commercial strategic information proprietary to Westinghouse and customarily held in confidence.

The affidavit previously provided to justify withholding proprietary information in this matter was submitted as AW-82-57 with letter NS-EPR-2675 dated November 1, 1982 and is equally applicable to this material.

Accordingly, it is respectfully requested that the subject information which is proprietary to Westinghouse be withheld from public disclosure in accordance with 10CFR Section 2.790 of the Commission's regulations.

Correspondence with respect to this application for withholding or the accompanying affidavit should reference AW-85-043 and should be addressed to the undersigned.

Very truly yours,

8507110461 850628
PDR ADOCK 05000601
K PDR

Robert A. Wiesemann

Robert A. Wiesemann, Manager
Regulatory & Legislative Affairs

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

AW-82-57

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

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COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared John D. McAdoo, 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:

John D. McAdoo, Assistant Manager
Nuclear Safety Department

Sworn to and subscribed
before me this 1 day
of November 1982.

Paulette Slonska

Notary Public

PAULETTE SLONSKA, NOTARY PUBLIC
MONROEVILLE BORO, ALLEGHENY COUNTY
MY COMMISSION EXPIRES MARCH 10, 1986
Member, Pennsylvania Association of Notaries

(1) I am Assistant Manager, Nuclear Safety Department, in the Nuclear Technology 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 rulemaking 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 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 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 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 the "Westinghouse Advanced Pressurized Water Reactor (WAPWR) Licensing Control Document." This document identifies specific design features and improvements which the WAPWR will have in order to meet current regulatory requirements. In addition, it establishes the WAPWR position with respect to each requirement.

Public disclosure of this information is likely to cause substantial harm to the competitive position of Westinghouse as it would reveal the description of the improved design features of the WAPWR; Westinghouse plans for future design, testing and analysis aimed at design verification; and demonstration of the design's capability to meet evolving NRC/ACRS safety goals. All of this information is of competitive value because of the large amount of effort and money expended by Westinghouse over a period of several years in carrying out this particular

development program. Further, it would enable competitors to use the information for commercial purposes and also to meet NRC requirements for licensing documentation, each without purchasing the right from Westinghouse to use the information.

Information regarding its development programs is valuable to Westinghouse because:

(a) Information resulting from its development programs 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 competitor 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) The Westinghouse capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.

Being an innovative concept, this information might not be discovered by the competitors of Westinghouse independently. To duplicate this information, competitors would first have to be similarly inspired and would then have to expend an effort similar to that of Westinghouse to develop the design.

Further the deponent sayeth not.