



Westinghouse
Electric Corporation

Water Reactor
Divisions

Nuclear Technology Division
Box 355
Pittsburgh Pennsylvania 15230

July 31, 1985
CAW-85-049

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

REFERENCE: Duke Power Company letter to NRC dated August, 1985.

Dear Mr. Denton:

The proprietary material for which withholding is being requested in the reference letter by Duke Power Company is further identified in an affidavit 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 10CFR Section 2.790 of the Commission's regulations.

The proprietary material for which withholding is being requested is of the same technical type as that proprietary material previously submitted with application for withholding AW-76-45.

Accordingly, this letter authorizes the utilization of the accompanying affidavit by Duke Power Company.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-85-049, and should be addressed to the undersigned.

Very truly yours,

Robert A. Wiesemann, Manager
Regulatory & Legislative Affairs

/pj

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

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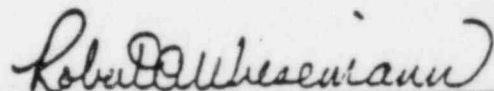
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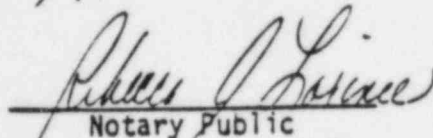
COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared Robert A. Wieseemann, 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. Wieseemann, Manager
Licensing Programs

Sworn to and subscribed
before me this 30 day
of September 1976.


Notary Public

RECEIVED BY NOTARY PUBLIC

NOTARY PUBLIC, ALLEGHENY COUNTY, PA. 1578

- (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 WCAP-8821, "Tranflo Steam Generator Code Description" (Proprietary), being transmitted by Westinghouse Letter No. NS-CE-1219, Eicheldinger to Stolz, dated September 29, 1976. This report is being submitted pursuant to the NRC's Topical Report Program for generic review by the Regulatory Staff and is expected to be referenced in several license applications.

This information enables Westinghouse to:

- (a) Justify the design basis for emergency systems.
- (b) Assist its customers to obtain licenses.
- (c) Optimize long-term cooling design.

Further, this information has substantial commercial value as follows:

- (a) Westinghouse sells the use of the information to its customers for purposes of meeting NRC requirements for licensing documentation.
- (b) Westinghouse uses the information to perform and justify analyses which are sold to customers.

Public disclosure of this information is likely to cause substantial harm to the competitive position of Westinghouse because it 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 this information is the result of many years of Westinghouse effort and the expenditure of a considerable sum of money.

In order for competitors of Westinghouse to duplicate this information, similar engineering programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended for data analyses and code development.

Further the dponent sayeth not.