



Westinghouse Electric Company,
a division of CBS Corporation

Box 355
Pittsburgh Pennsylvania 15230-0355

October 29, 1998
AW-98-1299

U.S. Nuclear Regulatory Commission
Two White Flint North
11545 Rockville Pike
Rockville, MD 20852-2738

ATTENTION: Mr. Charles Gaskins
Division of Fuel Cycle Safety and Safeguards
Licensing Branch Section 1

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

Subject: Columbia Plant Criticality Safety Evaluations (CSE's)

Dear Mr. Gaskins:

The 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 proprietary material for which withholding is being requested is identified in the proprietary version of the subject report. In conformance with 10 CFR Section 2.790, Affidavit AW-98-1299 accompanies this application for withholding, setting forth the basis on which the identified proprietary information may be withheld from public disclosure.

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-98-1299 and should be addressed to the undersigned.

Very truly yours,

H. A. Sepp, Manager
Regulatory and Licensing Engineering

Enclosure

cc: T. Carter/NRC (5E7)

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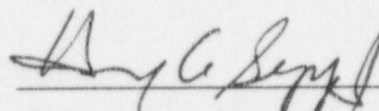
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COMMONWEALTH OF PENNSYLVANIA:

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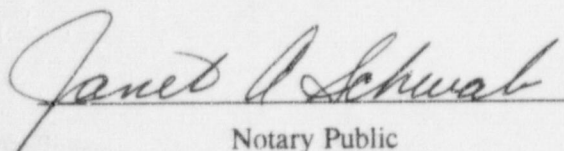
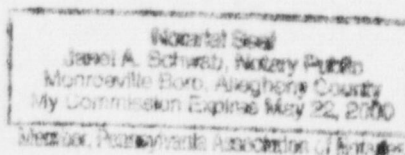
Before me, the undersigned authority, personally appeared Henry A. Sepp, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Westinghouse Electric Company, a division of CBS Corporation ("Westinghouse") and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:



Henry A. Sepp, Manager

Regulatory and Licensing Engineering

Sworn to and subscribed

before me this 29 dayof October, 1998
Notary Public

- 1) I am Manager, Regulatory and Licensing Engineering, in the Nuclear Services Division, of the Westinghouse Electric Company, a division of CBS Corporation ("Westinghouse"), 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 "Section 1.0, Process Description" and "Section 5.0, Safety Analysis," (Proprietary) being transmitted by the Westinghouse Electric Company letter and Application for Withholding Proprietary Information from Public Disclosure, to the U.S. Nuclear Regulatory Commission, Attention Mr. Charles Gaskins. The proprietary information is submitted by Westinghouse Electric Company in response to a "Request for Additional Information" RAI received from the Commission, pertaining to the justification of nuclear criticality safety at the CNFD-Columbia Plant and is expected to

be applicable in other licensee submittals in response to certain NRC requirements for justification of their nuclear criticality safety programs.

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

- (a) Meet the requirements of 10CFR70 for nuclear criticality safety at the CNFD Columbia Plant.
- (b) Respond to the Commission's RAI.
- (c) Demonstrate compliance with the requirements of its CNFD-Columbia Plant SNM license.
- (d) Provide justification of the nuclear criticality safety of its CNFD-Columbia Plant.

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 develop similar nuclear fuel manufacturing processes, and to provide similar nuclear criticality safety programs 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 to develop such a program.

Further the deponent sayeth not.