



ATTACHMENT 1  
ST-HL-AE-1601  
PAGE 1 OF 7

Westinghouse  
Electric Corporation

Water Reactor  
Divisions

Box 355  
Pittsburgh Pennsylvania 15230-0355

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

January 29, 1986  
CAW-86-013

APPLICATION FOR WITHHOLDING PROPRIETARY  
INFORMATION FROM PUBLIC DISCLOSURE

Subject: WCAP-9401-P-A Figure 3-2 "Floor Design Response Spectrum at Reactor Vessel Supports Elevation, SSE." Figure 3-2 from WCAP-9401-P-A was modified for South Texas Units 1 and 2 to show compliance with Appendix A of SRP Section 4.2 for the Draft SER item in Section 4.2

Reference: Westinghouse Letter No. NS-TMA-2057, Anderson to Varga, dated March 30, 1979

Dear Mr. Denton:

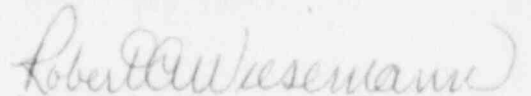
The proprietary material for which withholding is being requested in the reference letter by Houston Lighting and Power is further identified in an affidavit signed by the owner of the proprietary information, Westinghouse Electric Corporation. The affidavit, which accompanies this letter, sets forth 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 required is of the same technical type as that proprietary material previously submitted with Application for Withholding AW-78-23.

Accordingly, this letter authorizes the utilization of the accompanying affidavit by Houston Lighting and Power.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference this letter, CAW-86-013, and should be addressed to the undersigned.

Very truly yours,

  
Robert A. Wiesemann, Manager  
Regulatory & Legislative Affairs

/bek/1192n  
Enclosure(s)

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

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AW-78-23

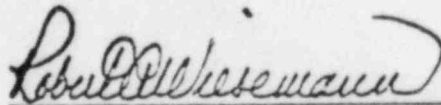
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COMMONWEALTH OF PENNSYLVANIA:

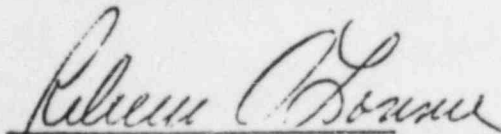
SS

COUNTY OF ALLEGHENY:

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

Sworn to and subscribed  
before me this 10 day  
of March 1978.

  
- Notary Public

RECEIVED

BY

1978

AW-78-23

- (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 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 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.
  - (1) 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.

Criteria and Standards Utilized

In determining whether information in a document or report is proprietary, the following criteria and standards are utilized by Westinghouse. Information is proprietary if any one of the following are met:

- (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 of a similar product.
- (d) It reveals cost or price information, production capacities, budget levels, or commercial strategies of Westinghouse, its customers or suppliers.

AW-78-23

- (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.
- (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 are the copies of slides utilized by Westinghouse in its presentation to the NRC at the March 21, 1978 meeting concerning the Westinghouse optimized fuel assembly. The letter and the copies of slides are being submitted in preliminary form to the Commission for review and comment on the Westinghouse optimized fuel assembly in advance of a formal submittal for NRC approval.

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 approved design, the comparison of the improved design with the standard design, the nature of the tests conducted, the test conditions, the test results and the conclusions of the testing program,



all of which is recognized by the Staff to be of competitive value and 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 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.

AW-78-23

- (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.