



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 23, 2022

Mr. Anthony Schoedel
Manager, eVinci Licensing & Configuration Management
Westinghouse Electric Company
1000 Westinghouse Drive
Cranberry Township, Pennsylvania 16066

SUBJECT: WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC
DISCLOSURE – WESTINGHOUSE EVINCI MICROREACTOR WHITE
PAPER FOR PRE-APPLICATION ENGAGEMENT

Dear Mr. Schoedel:

By letter dated May 31, 2022 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML22151A160), Westinghouse Electric Company LLC (Westinghouse) submitted an affidavit executed by you to the U.S. Nuclear Regulatory Commission (NRC) staff requesting the information contained in the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.390, "Public inspections, exemptions, requests for withholding":

EVR-RXS-FL-001, "TRISO Fuel Qualification and Testing"

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- i. The information sought to be withheld from public disclosure is owned and has been held in confidence by Westinghouse and is not customarily disclosed to the public.
- ii. The information sought to be withheld is being transmitted to the Commission in confidence and, to Westinghouse's knowledge, is not available in public sources.
- iii. Westinghouse notes that a showing of substantial harm is no longer an applicable criterion for analyzing whether a document should be withheld from public disclosure. Nevertheless, 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 technical evaluation justifications 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 the NRC staff requirements for licensing documentation without purchasing the right to use the information.

Westinghouse stated that 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.

Westinghouse has concluded that the reports referenced above contain proprietary information throughout, for the reasons set forth in Sections(a) through (f). Accordingly, a redacted version would be of no value to the public.

The NRC staff has reviewed the affidavit and the material in accordance with the requirements of 10 CFR 2.390 and based on the statements in the affidavit, has determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection will not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, the NRC may send copies of the information to our consultants working in this area. The NRC staff will ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, Westinghouse should promptly notify the NRC staff. Westinghouse also should understand that the NRC staff may have cause to review this determination in the future if, for example, the scope of a Freedom of Information Act request includes Westinghouse information.

In all review situations, the NRC staff will follow applicable laws, regulations, and policies in conducting its review, including the NRC's policies on notifying the owner of information in advance of any public disclosure.

If you have any questions about this matter, please contact Donna Williams at 301-415-1322 or via email at Donna.Williams@nrc.gov.

Sincerely,



Signed by Williams, Donna
on 08/23/22

Donna M. Williams, Senior Project Manager
Advanced Reactor Licensing Branch
Division of Advanced Reactors and Non-Power
Production and Utilization Facilities
Office of Nuclear Reactor Regulation

Project number: 99902079

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