



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

February 14, 2024

Mr. James Barstow  
Vice President, Nuclear Regulatory Affairs  
and Support Services  
Tennessee Valley Authority  
1101 Market Street, LP 4A-C  
Chattanooga, TN 37402-2801

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
FOR WATTS BAR NUCLEAR PLANT, UNITS 1 AND 2 (EPID L-2023-LLA-0152)

Dear Mr. Barstow:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated October 30, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML23303A095), Tennessee Valley Authority (TVA) requested that information contained in Enclosure 2 be withheld from public disclosure pursuant to Section 2.390 of Title 10 of the *Code of Federal Regulations* (10 CFR).

Subsequently, by letter dated January 10, 2024 (ML24010A064), TVA submitted a supplement to the October 30, 2023, letter to correct the marking of certain information that was incorrectly marked as proprietary. The January 10, 2024, submittal contains an affidavit dated December 14, 2023, executed by Zachary Harper, Manager, Licensing Engineering for Westinghouse Electric Company, LLC, that requested the proprietary information contained in the following document be withheld from public disclosure pursuant to 10 CFR 2.390:

LTR-SEE-23-4-P, Revision 2, "Technical Evaluation in Support of Watts Bar Units 1 & 2 Residual Heat Removal System (RHRS) Flow Rate Reduction During Mode 6 Operation at Refueling Water Level  $\geq$  23 Feet."

A nonproprietary copy of this document has been placed in the NRC's Public Document Room and added to the NRC Library in ADAMS.

The affidavit stated that:

- (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 NRC requirements for licensing documentation without purchasing the right to use the information.

The affidavit also stated, under Westinghouse's policies, the proprietary information in the subject document meets the following criteria:

- (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.
- (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.
- (e) It reveals aspects of past, present, or future Westinghouse or customer funded development plans and programs of potential commercial value to Westinghouse.

We have reviewed TVA's application and the material in accordance with the requirements of 10 CFR 2.390 and, based on the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the versions of 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 shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, 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, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

J. Barstow

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If you have any questions regarding this matter, I may be reached at 301-415-1627.

Sincerely,

*/RA/*

Kimberly J. Green, Senior Project Manager  
Plant Licensing Branch II-2  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket Nos. 50-390 and 50-391

cc: Zachary Harper  
Manager, Licensing Engineering  
Westinghouse Electric Company, LLC  
1000 Westinghouse Drive  
Cranberry Township, PA 16066

cc: Listserv

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DATED FEBRUARY 14, 2024

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**ADAMS Accession No.: ML24019A072**

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