



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

June 28, 2024

Mr. Zachary S. Harper
Senior Manager Licensing
Westinghouse Electric Company
Building 1
1000 Westinghouse Drive
Cranberry Township, PA 16066

SUBJECT: RESPONSE TO REQUEST FOR WITHHOLDING PROPRIETARY INFORMATION FROM PUBLIC DISCLOSURE, "ENCLOSURE 3- TRANSMITTAL OF CLOSED SESSION PRESENTATION SLIDES TO SUPPORT THE WESTINGHOUSE-NRC PRE-SUBMITTAL MEETING ON THE WESTINGHOUSE AP300™ SMR SAFETY CLASSIFICATION AND SEISMIC CATEGORIZATION APPROACH WHITE PAPER"

REFERENCE: Westinghouse Affidavit AW-24-035

Dear Mr. Harper:

By letter dated June 18, 2024 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML24170B034), Westinghouse Electric Company submitted, in Enclosure 1, an affidavit signed by yourself and dated June 18, 2024, requesting the subject pre-application engagement white paper, contained in Enclosure 3 (ML14170B036) be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390. Enclosure 3 is dated "June 2024," and marked as "Westinghouse Proprietary Class 2" on every page.

The affidavit in Enclosure 1 to your letter stated in part that, pursuant to 10 CFR 2.390, the submitted information in the white paper is trade secret, privileged, or confidential commercial or financial information and should be considered exempt from mandatory public disclosure for the following reasons:

1. The information sought to be withheld from public disclosure is owned and has been held in confidence by Westinghouse Electric Company.
2. The information is of a type held in confidence by Westinghouse Electric Company and not customarily disclosed to the public.
3. The information is transmitted to the Commission in confidence.
4. The information sought to be protected is not available in public sources.
5. The 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 without commensurate expenses.

6. 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 information should be held in confidence for the reasons identified as Section 5 (a) and (c) (Section 5 of Enclosure 1 lists the types of information held in confidence by Westinghouse, as items (a) through (f)):

- (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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390, and on the basis of 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 submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390 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 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 a need to know and 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.

Z. Harper

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If you have any questions regarding this matter, I may be reached at 301-415-5848.

Sincerely,

/RA/

William "Billy" Gleaves, Sr. Project Manager
Licensing and Regulatory Infrastructure Branch
Division of New and Renewed Licenses
Office of Nuclear Reactor Regulation

Project No.: 99902111

cc: G. Cranston
M. Hayes
J. Glisan
GovDelivery listerv for AP300

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 DATED: JUNE 28, 2024

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NRR-106

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