



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

August 12, 2024

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 James Barstow:

By letter to the U.S. Nuclear Regulatory Commission (NRC) dated June 27, 2024 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML24179A207), Tennessee Valley Authority (TVA) submitted an affidavit dated June 20, 2024, executed by Zachary Harper, Senior Manager, Licensing for Westinghouse Electric Company, LLC, that requested the proprietary information contained in the following document be withheld from public disclosure pursuant to Section 2.390 of Title 10 of the *Code of Federal Regulations* (10 CFR):

Response to EMIB-RCI-2 (Proprietary) and Responses to Requests for Additional Information (RAI) SNSB RAI-1 and SNSB RAI-2 (Proprietary)

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 provided the following reasons for withholding the proprietary information:

- (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 that Westinghouse has policies in place to identify proprietary information, and that the information is held in confidence if it meets one or more criteria. Westinghouse stated that the 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 submittal 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 version 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.

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
Senior Manager, Licensing
Westinghouse Electric Company, LLC
1000 Westinghouse Drive
Cranberry Township, Pennsylvania 16066

cc: Listserv

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FOR WATTS BAR NUCLEAR PLANT, UNITS 1 AND 2
DATED AUGUST 12, 2024

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