



November 19, 1999

C1199-25
10 CFR 50.90

Docket Nos.: 50-315
50-316

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Mail Stop O-P1-17
Washington, DC 20555-0001

Donald C. Cook Nuclear Plant Units 1 and 2
RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION
TECHNICAL SPECIFICATION CHANGE REQUEST
CONTAINMENT RECIRCULATION SUMP WATER INVENTORY
(TAC NOS. MA6766 AND MA6767)

- References: 1) I&M to NRC letter C1099-08, "Technical Specification Change Request - Containment Recirculation Sump Water Inventory," dated October 1, 1999.
- 2) NRC to I&M letter, "Donald C. Cook Nuclear Plant (D. C. Cook), Units 1 and 2 - Request for Additional Information Related to License Amendment and Associated Technical Specification Change Concerning the Containment Sump (TAC Nos. MA6766 and MA6767)," dated November 10, 1999.

In Reference 1, Indiana Michigan Power Company (I&M), the Licensee for Donald C. Cook Nuclear Plant Units 1 and 2, proposed changes to Appendix A, Technical Specifications, to Facility Operating Licenses DPR-58 and DPR-74. This request was to ensure that, for certain small break loss-of-coolant accident scenarios, there would be sufficient containment recirculation sump water inventory to support continued operation of the emergency core cooling system and containment spray system pumps during and following switchover to cold leg recirculation.

A report (FAI/99-77) by Fauske & Associates, Incorporated was included in this request. Appendix E of this report included figures that are considered proprietary in their original, unedited form by Westinghouse Electric Corporation. Consequently, only non-proprietary versions of these figures were provided in Reference 1.

In Reference 2, the NRC requested submittal of these figures with the information included that had been previously redacted. Attached is the requested information, which is considered proprietary to Westinghouse Electric Corporation. Accordingly, we request that you withhold from public disclosure the pages marked as proprietary pursuant to 10 CFR 2.790(a)(4). A supporting affidavit for withholding this information from public disclosure has been executed by Fauske & Associates, Incorporated, a wholly owned subsidiary of Westinghouse Electric Company, in accordance with 10 CFR 2.790(b)(1)(ii), and is provided as part of the attachment.

I&M has evaluated the attached information and concludes that the evaluation of significant hazards considerations for the requested license amendment as described in Reference 1 and published in the Federal Register (64 FR 58458) is not affected by the information provided in the attachment.

Should you have any questions, please contact Mr. Robert C. Godley, Director of Regulatory Affairs, at (616) 466-2698.

Sincerely,



M. W. Rencheck
Vice President

Attachment

\dms

c: J. E. Dyer
MDEQ - DW & RPD, w/o attachment
NRC Resident Inspector
R. Whale, w/o attachment

ATTACHMENT TO C1199-25

REQUESTED INFORMATION RELATED TO
TECHNICAL SPECIFICATION CHANGE REQUEST
CONTAINMENT RECIRCULATION SUMP WATER INVENTORY

AFFIDAVIT

STATE OF ILLINOIS

COUNTY OF DUPAGE

Before me, the undersigned authority, personally appeared Robert E. Henry, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Fauske & Associates, Inc., a wholly owned subsidiary of the 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 E. Henry

Robert E. Henry

Senior Vice President

Process Safety Department

Sworn to and subscribed

before me this 10th day

of November, 1999

Hans Kristian Fauske

Notary Public



- (1) I am Senior Vice President of Fauske & Associates, Inc., a wholly owned subsidiary 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, and am authorized to apply to its withholding on behalf of the Westinghouse Nuclear Systems Business Unit.
- (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 the Westinghouse Nuclear Systems Business Unit 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.
 - (i) 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.

Under that system, 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.
- (g) It is not the property of Westinghouse, but must be treated as proprietary by Westinghouse according to agreements with the owner.

There are sound policy reasons behind the Westinghouse system which include the following:

- (a) The use of such information by Westinghouse 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 component of proprietary information, any one component may be the key to the entire puzzle, thereby depriving Westinghouse of a competitive advantage.
- (e) Unrestricted disclosure would jeopardize the position of prominence of Westinghouse in the world market, and thereby give a market advantage to the competition of those countries.
- (f) The Westinghouse capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.

- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10CFR Section 2.790, it is to be received in confidence by the Commission.
- (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
- (v) The proprietary information sought to be withheld in this submittal is presented in Appendix E of FAI report 99-77, Rev. 2 entitled "Containment Sump Level Evaluations for the D.C. Cook Plant". The proprietary information as submitted for use by Indiana Michigan Power Company for Donald C. Cook Nuclear Plant Units 1 and 2 may be applicable in other license submittals in response to certain NRC requirements.

This information is part of that which will enable Westinghouse to assist the customer to obtain NRC approval.

Further this information has substantial commercial value as follows:

- (a) Westinghouse plans to sell the use of similar information to its customers for purposes of meeting NRC requirements for licensing documentation.
- (b) Westinghouse can sell support and defense of the technology to its customers in the licensing process.

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 competitor to provide similar methodologies 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 development of the technology described in part by the information is the result of applying the results of many years of experience in an intensive Westinghouse effort and the expenditure of a considerable sum of money.

In order for competitors of Westinghouse to duplicate this information, similar technical programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expanded for developing testing and analytical methods and performing tests.

Further the deponent sayeth not.