

April 12, 2012

Mr. Scott Head
Manager, Regulatory Affairs
STP Units 3 & 4
Nuclear Innovation North America, LLC
4000 Avenue F
Bay City, TX 76109

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR NUCLEAR INNOVATION NORTH AMERICA SPENT FUEL RACK AUDIT
PRESENTATION MATERIAL ENTITLED "STP UNITS 3 & 4 SPENT FUEL
STORAGE RACK BASELINE DESIGN STRUCTURAL ANALYSIS"

Dear Mr. Head:

By letter dated February 7, 2012, you submitted an affidavit dated January 13, 2012, executed by B.F. Maurer, Manager, ABWR Licensing, Westinghouse Electric Company LLC (Westinghouse), requesting that the supporting documentation for the spent fuel rack audit presentation material contains information specifically considered to be proprietary to Westinghouse that should be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 2, Section 2.390.

A nonproprietary copy of this information was provided in Attachment 1 and was placed in the U.S. Nuclear Regulatory Commission (NRC) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room (ADAMS Accession No. ML12040A061).

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.
- 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 constitute Westinghouse policy and provides the rational basis required.
- iii. This information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.90; 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 that which is appropriately marked in Spent Fuel Rack audit Presentation Material entitled "STP Units 3 & 4 Spent Fuel Storage Rack Baseline Design Structural Analysis" (Proprietary), for submittal to the Commission, being transmitted by Nuclear Innovation North America (NINA) letter and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted by Westinghouse is that associated with the NRC review of the ABWR spent fuel rack structural analysis methodology for South Texas Project Units 3 & 4.

We have reviewed the February 7, 2012, letter and the affidavit in accordance with the requirements of 10 CFR 2.390 and, on the basis of your statements, 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(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 301-415-5787 or rocky.foster@nrc.gov.

Sincerely,

/RA Michael Eudy for/

Rocky D. Foster, Project Manager
Licensing Branch 3
Division of New Reactor Licensing
Office of New Reactors

Docket Nos. 52-012 and 52-013

cc: See next page

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/RA Michael Eudy for/

Rocky D. Foster, Project Manager
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Division of New Reactor Licensing
Office of New Reactors

Docket Nos. 52-012 and 52-013

cc: See next page

Distribution: See next page

ADAMS Accession No.: ML120400063

NRO-002

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DATE	04/11/2012	04/09/2012	04/12/2012

OFFICIAL RECORD COPY

S. Head

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Letter to Scott Head from Rocky Foster dated April 12, 2012.

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