

WALTZ MILL FACILITY

**PRESENTATION OF
WESTINGHOUSE ELECTRIC
COMPANY LLC
TO THE
NRC PETITION REVIEW BOARD**

February 20, 2003

PRESENTATION

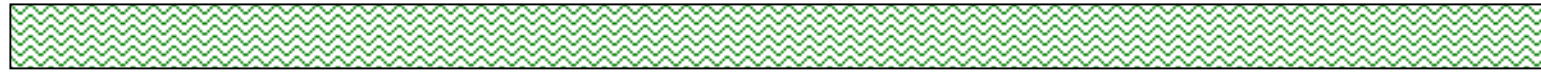
- Introduction of panel members
- The Parties
- The Waltz Mill facility
- The Viacom filings
- The disputes in arbitration
- Westinghouse position with regard to Viacom filings
- Reserved time for rebuttal
- NRC comments and questions

THE PARTIES

- Westinghouse Electric Corporation
 - Original licensee: TR-2 and SNM-770
- Westinghouse Electric Corporation acquires CBS (1997)
 - Subsequently changed its name to CBS Corporation (December 1, 1997)
 - Operated Waltz Mill under the name Westinghouse Electric Company, a Division of CBS Corporation
- CBS sells commercial nuclear business to BNFL (March 22, 1999)
 - Includes nuclear services division
 - BNFL creates new subsidiary - Westinghouse Electric Company LLC
 - SNM-770 license transferred to Westinghouse Electric Company LLC (March 22, 1999)
 - TR-2 license retained by CBS
- CBS merged into Viacom (May 2000)

THE PARTIES (cont.)

- BNFL
- Westinghouse Electric Company LLC



- Westinghouse Electric Corporation
- CBS Corporation
- Westinghouse Electric Company, a Division of CBS Corporation
- Energy Systems Business Unit of CBS Corporation
- Viacom

THE WALTZ MILL FACILITY

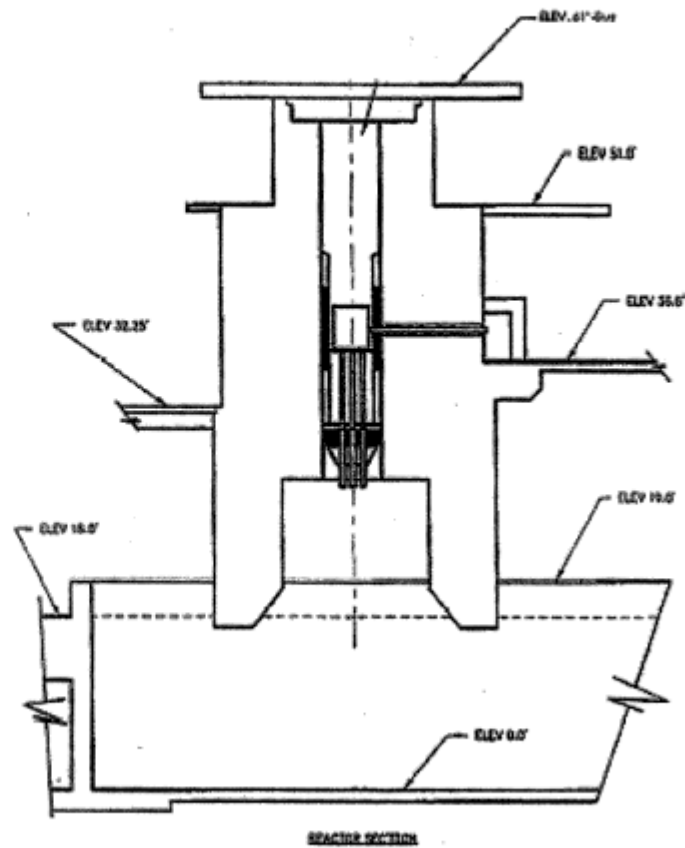
- 850 acre site in western Pennsylvania
- Consolidated site for support of ongoing nuclear services business for Westinghouse
- Site of the Waltz Mill test reactor
 - TR-2 – Part 50 (possession only since 1963)
- SNM-770
 - Support ongoing service work
 - Legacy contamination
 - Retired facilities
 - Soil contamination
 - Allow completion of test reactor cleanup







TR-2 ELEVATIONS















2 million

404















THE VIACOM FILINGS

- Two filings by Viacom
 - Request for orders filed October 29, 2002
 - § 2.206 petition filed October 30, 2002
- Both filings should be treated under § 2.206
- Westinghouse filed a consolidated response on December 20, 2002

The dispute is not about whether Waltz Mill will be appropriately remediated; the dispute relates to which of the two parties pays for remediation under the Plans

THE VIACOM FILINGS (cont.)

- NRC should deny or defer petitions
- If NRC considers the petitions, it should consider affirmative requests by Westinghouse in its December 20, 2002 Response

THE VIACOM FILINGS (cont.)

- NRC should deny or defer petitions
 - No reason for NRC to involve itself in the commercial dispute
 - Viacom has not completed the actions necessary to terminate its license
 - As a legal matter, Viacom is not entitled to the relief it seeks
 - Viacom has not demonstrated it will fulfill contractual obligations for Waltz Mill remediation under the SNM-770 license

THE VIACOM FILINGS (cont.)

- If NRC considers the petitions, it should consider affirmative requests by Westinghouse regarding decommissioning of TR-2 reactor and the ongoing need for cleanup of legacy contamination
 - Retired facilities
 - Contaminated soils
 - Groundwater

THE DISPUTES IN ARBITRATION

- Responsibility for payment for decommissioning and remediation determined by Asset Purchase Agreement (APA) Section 8.1
 - NRC approvals determinative
- Overall division of responsibility for cleanup
 - Viacom:
 - Legacy contamination (in accordance with plans as approved by the NRC)
 - TR-2
 - Retired facilities and soils

ASSET PURCHASE AGREEMENT § 8.1

(partial)

Notwithstanding any other limitation in this Section 8.1, **with respect to the Waltz Mill Service Center, CBS shall, at its sole cost and expense, implement all remedial measures, including removal and decontamination activities, as may be required by and are in accordance with approvals received or to be received from the NRC (the “Plans”) (x) in those areas of the Waltz Mill Service Center identified in the Plans as “Retired Facilities” and (y) which are associated with the termination of the TR-2 NRC License,** which Plans are incorporated herein by reference. CBS shall have the responsibility and sole and exclusive authority to negotiate with and respond to the NRC (and any other Governmental Authority) with respect to any issues which may arise during implementation of the Plans, including, but not limited to, dose assessment and surveying issues.

THE DISPUTES IN ARBITRATION

- Responsibility for payment for decommissioning and remediation determined by Asset Purchase Agreement (APA) Section 8.1
 - NRC approvals of plans determinative
- Overall division of responsibility for cleanup
 - Viacom:
 - Legacy contamination (in accordance with plans as approved by the NRC)
 - TR-2
 - Retired facilities and soils

THE DISPUTES IN ARBITRATION

(cont.)

- Overall division of responsibility (cont.)
 - Westinghouse
 - Responsibility for services business at end of licensed life (ongoing operations)
 - Ultimate responsibility for site after completion of required Viacom actions
- Disputes to be settled by arbitration

THE DISPUTES IN ARBITRATION

(cont.)

- Viacom has unilaterally terminated all work without completing required cleanup
- Westinghouse filed two arbitration demands
 - October 2, 2002
 - November 8, 2002

WESTINGHOUSE POSITION REGARDING VIACOM'S NRC FILINGS

- Contractual dispute
 - Forum contractually chosen by parties is arbitration
 - Any NRC pronouncements could affect dispute
- NRC should deny Viacom's petitions
 - Assurance that remediation will be completed and site ultimately will be decommissioned
 - Westinghouse and Viacom agree no health and safety issues
 - No regulatory purpose
 - Embroil NRC in economic controversy

WESTINGHOUSE POSITION REGARDING VIACOM FILINGS (cont.)

- If NRC considers petitions, must broaden issues to consider non-performance of Viacom

VIACOM'S OBLIGATIONS REGARDING RETIRED WESTINGHOUSE (WALTZ MILL) REACTOR

- Viacom must complete removal of biological shield
 - Required by language of DP (Rev. 0 and Rev. 1)
 - 50.59 analysis did not change this requirement
 - Requirement of Technical Specifications
 - 50.59 inappropriate avenue for changing decommissioning criteria

VIACOM'S OBLIGATIONS REGARDING RETIRED WESTINGHOUSE (WALTZ MILL) REACTOR (cont.)

- Status:
 - Viacom has ceased work and demobilized
 - Large parts of biological shield and contaminated penetrations remain
- Actions required of Viacom regarding TR-2:
 - Complete biological shield removal
 - Commit to and complete remediation under SNM-770 after transfer

VIACOM'S OBLIGATIONS REGARDING RETIRED FACILITIES

- Criteria:
 - Unrestricted release – no plans for licensed activities
 - Four times unrestricted release – only if there are plans for licensed use
 - Decision as to plans for licensed use can only be made by Westinghouse as SNM-770 licensee
- Status:
 - Viacom has ceased work without completing remediation to either criterion

VIACOM'S OBLIGATIONS REGARDING RETIRED FACILITIES (cont.)

- Actions required of Viacom:
 - Completion of retired facilities remediation to unrestricted release
 - Completion of remaining reactor facilities remediation to unrestricted release after transfer

VIACOM'S OBLIGATIONS REGARDING SOIL CONTAMINATION

- Criteria in Revised Soil Plan:
 - Remediate now to reduce soil and groundwater contamination
 - Unrestricted release with allowance for groundwater remediation
- Status:
 - Viacom has ceased work without completing remediation under Revised Soil Plan
 - Remediation plan for other areas has yet to be submitted
 - Process Drain Line remediation incomplete

ATTACHMENT TO JANUARY 11, 2000 LETTER

Response to NRC Comment 1 (Partial):

Section 2.1.2.5 of the Remediation Plan, which was submitted on November 27, 1996, provides a reference to soil areas of the site not covered in the revised soil plan submitted August 9, 1999. **These specific areas will be addressed in a separate submittal to be made by July 31, 2000.**

VIACOM'S OBLIGATIONS REGARDING SOIL CONTAMINATION (cont.)

- Actions required of Viacom
 - Complete remainder of soil remediation under August 9, 1999 letter (Revised Soil Plan)
 - Develop soil remediation plan pursuant to commitment made in January 11, 2000 letter
 - Implement plan upon approval
 - Complete commitment for Process Drain Line made to NRC in August 12, 1998 letter

VIACOM'S OBLIGATIONS REGARDING SOIL CONTAMINATION (cont.)

- Actions required of Viacom (cont.)
 - Develop and implement plan for groundwater remediation pursuant to June 22, 1999 letter

Conclusion

- NRC should deny the petitions and allow the matters to be resolved in arbitration proceedings as chosen by the parties.
- At most, NRC should defer a decision on the petitions pending the outcome of the binding arbitration proceedings.
- If the NRC considers the petitions on the merits, it should consider the full, balanced picture and take affirmative action requiring Viacom to fulfill its responsibilities.

NRC COMMENTS AND QUESTIONS