

June 17, 2003

Mr. Ian C. Rickard
Licensing Project Manager
Westinghouse Electric Company LLC
Building 4, 2000 Day Hill Road
Windsor, CT 06095-0500

SUBJECT: PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3 -
REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR CORE PROTECTION CALCULATOR UPGRADE AMENDMENT
REQUEST (TAC NOS. MB6726, MB6727, AND MB6728)

Dear Mr. Rickard:

By letter dated April 25, 2003, Arizona Public Service Company (APS) submitted the response to a request for additional information involving the human factors involved in the upgrade of the core protection calculator system for Palo Verde Nuclear Generating Station, Units 1, 2, and 3. Attachment 1 and 2 to that letter contained the proprietary and non-proprietary versions of the following Westinghouse Electric Company (WEC) topical report: WCAP-16076, "Requirements Phase Human Factors Review of the Common Q Phase 3 Core Protection Calculator System Project," Revision 0, dated March 2003. A copy of each non-proprietary report has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

By the affidavit dated March 28, 2003, executed by H. A. Sepp, Manager, Regulatory and Licensing Engineering, for WEC, which is Attachment 3 to APS's letter dated April 25, 2003, the NRC was requested to withhold the information designated as proprietary information. The proprietary information is within brackets in the non-proprietary and proprietary versions of the reports. The affidavit stated that the proprietary information (hereafter known as "The information") should be exempt from mandatory public disclosure for the following reasons (taken verbatim from the affidavit):

- (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 ... 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 disadvantage over other companies.

and

- (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 information sought to be withheld from public disclosure in accordance with the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 10 CFR 2.790, and, on the basis of your statements in the affidavit, have determined that the information sought to be withheld contains proprietary commercial information and should, in accordance with 10 CFR 2.790(b)(5), 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 2.790(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 information. If the need arises, we may send copies of this information to our consultants working in this area. If this is done, 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 of this fact. You should also 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 this information. In all review situations, if the NRC makes a determination adverse to the above determination, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, please contact me at 301-415-1307, or through the Internet at jnd@nrc.gov.

Sincerely,

/RA/

Jack Donohew, Senior Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. STN 50-528, STN 50-529,
and STN 50-530

cc: See next page

- (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 information sought to be withheld from public disclosure in accordance with the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 10 CFR 2.790, and, on the basis of your statements in the affidavit, have determined that the information sought to be withheld contains proprietary commercial information and should, in accordance with 10 CFR 2.790(b)(5), 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 2.790(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 information. If the need arises, we may send copies of this information to our consultants working in this area. If this is done, 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 of this fact. You should also 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 this information. In all review situations, if the NRC makes a determination adverse to the above determination, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, please contact me at 301-415-1307, or through the Internet at jnd@nrc.gov.

Sincerely,

/RA/

Jack Donohew, Senior Project Manager, Section 2
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. STN 50-528, STN 50-529
and STN 50-530

cc: See next page

DISTRIBUTION:

PUBLIC

PDIV-2 Reading

RidsNrrDlpmLpdiv (HBerkow)

RidsNrrPMJDonohew

RidsNrrLAMMcAllister

MPSiemien (OGC)

RidsRgn4MailCenter(AHowell)

DTrimble (NRR/DIPM)

*See previous concurrence

ADAMS Accession No.: ML031681309

NRR-084

OFFICE	PDIV-2/PM	PDIV-1/LA	IEHB/SC	OGC	PDIV-2/SC
NAME	JDonohew	MMcAllister	DTrimble*	RBaum *	SDembek
DATE	6/9/03	6/9/03	05/28/2003	06/06/2003	6/16/03

DOCUMENT NAME: G:\PDIV-2\PaloVerde\Proprietary Letter Response-CPC upgrade.pvngs.wpd

OFFICIAL RECORD COPY

Palo Verde Generating Station, Units 1, 2, and 3

cc:

Mr. Steve Olea
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Douglas Kent Porter
Senior Counsel
Southern California Edison Company
Law Department, Generation Resources
P.O. Box 800
Rosemead, CA 91770

Senior Resident Inspector
U.S. Nuclear Regulatory Commission
P.O. Box 40
Buckeye, AZ 85326

Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
Harris Tower & Pavillion
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011-8064

Chairman
Maricopa County Board of Supervisors
301 W. Jefferson, 10th Floor
Phoenix, AZ 85003

Mr. Aubrey V. Godwin, Director
Arizona Radiation Regulatory Agency
4814 South 40 Street
Phoenix, AZ 85040

Mr. Craig K. Seaman, Director
Regulatory Affairs/Nuclear Assurance
Palo Verde Nuclear Generating Station
P.O. Box 52034
Phoenix, AZ 85072-2034

Mr. Hector R. Puente
Vice President, Power Generation
El Paso Electric Company
2702 N. Third Street, Suite 3040
Phoenix, AZ 85004

Mr. John Taylor
Public Service Company of New Mexico
2401 Aztec NE, MS Z110
Albuquerque, NM 87107-4224

Mr. Jarlath Curran
Southern California Edison Company
5000 Pacific Coast Highway Building DIN
San Clemente, CA 92672

Mr. Robert Henry
Salt River Project
6504 East Thomas Road
Scottsdale, AZ 85251

Terry Bassham, Esq.
General Counsel
El Paso Electric Company
123 W. Mills
El Paso, TX 79901

Mr. John Schumann
Los Angeles Department of Water & Power
Southern California Public Power Authority
P.O. Box 51111, Room 1255-C
Los Angeles, CA 90051-0100

Brian Almon
Public Utility Commission
William B. Travis Building
P.O. Box 13326
1701 North Congress Avenue
Austin, TX 78701-3326

Mr. Gregg R. Overbeck
Senior Vice President, Nuclear
Arizona Public Service Company
P.O. Box 52034
Phoenix, AZ 85072-2034