

August 20, 2003

Mr. John W. Fasnacht
Manager, Major Programs Group
Westinghouse Electric Company
Nuclear Services
P.O. Box 355
Pittsburgh, PA 15230-0355

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC
DISCLOSURE, MILLSTONE POWER STATION, UNIT NO. 3
(TAC NO. MB9897)

Dear Mr. Fasnacht:

By letter dated July 1, 2003, Dominion Nuclear Connecticut, Inc. (DNC) submitted an affidavit dated June 16, 2003, executed by yourself, requesting that the following document be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790: Attachment 1 to DNC Letter No. B18922, "Request for Exemption Pursuant to 10 CFR 50.12, Exemption to the Cladding Material Specified in 10 CFR 50.44, 10 CFR 50.46, and 10 CFR 50 Appendix K."

A nonproprietary copy of this document has been placed in the U.S. Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (1) The information sought to be withheld from public disclosure is owned and has been held in confidence by Westinghouse.
- (2) The information is of a type customarily held in confidence by Westinghouse and not customarily disclosed to the public.
- (3) 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.
- (4) 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.
- (5) 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.

- (6) 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 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 expended for developing the enclosed improved core thermal performance methodology.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.790 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, Attachment 1 to Letter No. B18922, 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 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 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 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.

J. Fasnacht

- 3 -

If you have any questions regarding this matter, I may be reached at 301-415-1484.

Sincerely,

/RA/

Victor Nerses, Senior Project Manager, Section 2
Project Directorate 1
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-423

cc: See next page

If you have any questions regarding this matter, I may be reached at 301-415-1484.

Sincerely,

/RA/

Victor Nerses, Senior Project Manager, Section 2
Project Directorate 1
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-423

cc: See next page

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*See previous concurrence

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Millstone Power Station
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