

February 25, 2013

Ms. Stephanie Smith
Project Manager - Nuclear Automation Licensing
Westinghouse Electric Company, LLC.
Suite 517
5000 Ericsson Drive
Warrendale, PA 15086

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE OF WESTINGHOUSE COMMENTS ON DRAFT SAFETY EVALUATIONS FOR LICENSE TOPICAL REPORT WCAP-16097, REVISION 3, "COMMON QUALIFIED PLATFORM TOPICAL REPORT" (ME5157) AND WCAP-16096-P/NP, "SOFTWARE PROGRAM MANUAL FOR COMMON Q SYSTEMS" (TAC NO. ME5159)

Dear Ms. Smith:

By letter dated January 22, 2013 (Agencywide Documents Access and Management System Accession No. ML13028A307), Westinghouse Electric Company (Westinghouse) submitted an affidavit executed by John A. Gresham, Manager, Regulatory Compliance dated January 22, 2013. The affidavit requested that the information contained in the Westinghouse comments on the subject draft safety evaluations (SEs) be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390.

In the January 22, 2013, letter Westinghouse stated that it did not plan to submit nonproprietary versions of the documents listed in the enclosure. The reasons given for this were:

- 1) The comments were working documents that will be used in the ongoing process of producing nonproprietary SEs for public dissemination. The nonproprietary content of the draft SEs will be included in the final versions of the SEs that will be available to the public; and
- 2) The proposed revisions to the draft WCAP-16097-P, Revision 3 require NRC reviews and approval. When approved, the revisions will be incorporated into WCAP-16097, Revision 3 and proprietary and nonproprietary versions of the approved WCAP will be submitted.

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 constitutes Westinghouse policy and provides the rational basis required.

(iii) The information was transmitted to the NRC was done so in confidence and, under the provisions of 10 CFR Section 2.390, it is to be handled 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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version(s) of 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 301-415-7297.

Sincerely,

/RA/

Joseph J. Holonich, Sr. Project Manager
Licensing Processes Branch
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Project No. 779

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