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Constellation
Energy



P.O. Box 63
Lycoming, NY 13093

NINE MILE POINT NUCLEAR STATION

May 3, 2013

U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTENTION: Document Control Desk

SUBJECT: Nine Mile Point Nuclear Station
Unit No. 2; Docket No. 50-410

Submittal of Evaluation to Establish Inspection Intervals for Jet Pump Holddown Beams Fabricated from Modified Alloy 718 Material – Supplemented Affidavit Justifying Withholding Proprietary Information

REFERENCE: (a) Letter from P. M. Swift (NMPNS) to Document Control Desk (NRC), dated March 11, 2013, Submittal of Evaluation to Establish Inspection Intervals for Jet Pump Holddown Beams Fabricated from Modified Alloy 718 Material

By letter dated March 11, 2013 (Reference a), Nine Mile Point Nuclear Station, LLC (NMPNS) submitted an evaluation to support establishment of inspection intervals for the Modified Alloy 718 jet pump holddown beams that were installed during the spring 2012 Nine Mile Point Unit 2 (NMP2) refueling outage. Attachment 3 of Reference (a) was an affidavit from Westinghouse Electric Company LLC justifying withholding proprietary information that was included as Attachment 4 of Reference (a). At the request of the NRC project manager for NMP2, the original affidavit addressing the proprietary information contained in Attachment 4 of Reference (a) is hereby supplemented by including the last page containing the "Proprietary Information Notice" and the "Copyright Notice," as provided in the Attachment to this letter.

This submittal contains no new regulatory commitments. Should you have any questions regarding the information in this submittal, please contact John J. Dosa, Director Licensing, at (315) 349-5219.

Very truly yours,

Paul M. Swift
Manager Engineering Services

A001
NRC

Document Control Desk

May 3, 2013

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PMS/DEV

Attachment: Supplemented Affidavit from Westinghouse Electric Company LLC Justifying
 Withholding Proprietary Information Contained in Westinghouse Engineering Report
 XGEN-2012-25-P, Revision 1

cc: Regional Administrator, Region I, NRC
 Project Manager, NRC
 Resident Inspector, NRC

ATTACHMENT

**SUPPLEMENTED AFFIDAVIT FROM WESTINGHOUSE
ELECTRIC COMPANY LLC JUSTIFYING WITHHOLDING
PROPRIETARY INFORMATION CONTAINED IN WESTINGHOUSE
ENGINEERING REPORT XGEN-2012-25-P, REVISION 1**

The original affidavit that was provided in Attachment 3 of the NMPNS letter dated March 11, 2013 is hereby supplemented by including the last page containing the "Proprietary Information Notice" and the "Copyright Notice."


AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

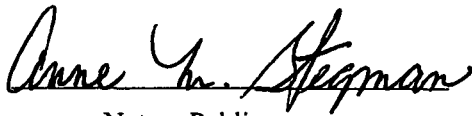
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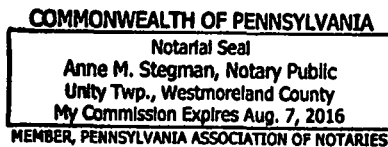
COUNTY OF BUTLER:

Before me, the undersigned authority, personally appeared James A. Gresham, who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Westinghouse Electric Company LLC (Westinghouse), and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:


James A. Gresham, Manager
Regulatory Compliance

Sworn to and subscribed before me
this 28th day of February 2013


Notary Public



- (1) I am Manager, Regulatory Compliance, in Nuclear Services, Westinghouse Electric Company LLC (Westinghouse), and as such, I have been specifically delegated the function of reviewing the proprietary information sought to be withheld from public disclosure in connection with nuclear power plant licensing and rule making proceedings, and am authorized to apply for its withholding on behalf of Westinghouse.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.390 of the Commission's regulations and in conjunction with the Westinghouse Application for Withholding Proprietary Information from Public Disclosure accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by Westinghouse in designating information as a trade secret, privileged or as confidential commercial or financial information.
- (4) Pursuant to the provisions of paragraph (b)(4) of Section 2.390 of the Commission's regulations, the following is furnished for consideration by the Commission in determining whether the information sought to be withheld from public disclosure should be withheld.
 - (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.

Under that system, information is held in confidence if it falls in one or more of several types, 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 advantage over other companies.

- (b) 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.
- (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.
- (d) It reveals cost or price information, production capacities, budget levels, or commercial strategies of Westinghouse, its customers or suppliers.
- (e) It reveals aspects of past, present, or future Westinghouse or customer funded development plans and programs of potential commercial value to Westinghouse.
- (f) It contains patentable ideas, for which patent protection may be desirable.

There are sound policy reasons behind the Westinghouse system which include the following:

- (a) The use of such information by Westinghouse gives Westinghouse a competitive advantage over its competitors. It is, therefore, withheld from disclosure to protect the Westinghouse competitive position.
- (b) It is information that is marketable in many ways. The extent to which such information is available to competitors diminishes the Westinghouse ability to sell products and services involving the use of the information.
- (c) Use by our competitor would put Westinghouse at a competitive disadvantage by reducing his expenditure of resources at our expense.

- (d) Each component of proprietary information pertinent to a particular competitive advantage is potentially as valuable as the total competitive advantage. If competitors acquire components of proprietary information, any one component may be the key to the entire puzzle, thereby depriving Westinghouse of a competitive advantage.
 - (e) Unrestricted disclosure would jeopardize the position of prominence of Westinghouse in the world market, and thereby give a market advantage to the competition of those countries.
 - (f) The Westinghouse capacity to invest corporate assets in research and development depends upon the success in obtaining and maintaining a competitive advantage.
- (iii) The information is being transmitted to the Commission in confidence and, under the provisions of 10 CFR Section 2.390, 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 XGEN-2012-25, Revision 1, "Technical Basis for the Inspection Frequency of the Modified Alloy 718 Jet Pump Beam" (Proprietary), dated January 2013, for submittal to the Commission, being transmitted by Constellation Energy 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 Constellation Energy's submittal regarding jet pump beam inspection frequency, and may be used only for that purpose.

This information is part of that which will enable Westinghouse to:

- (a) Sell the use of the information to its customers for the purpose of supplying Alloy 718 as reactor components.

Further this information has substantial commercial value as follows:

- (a) The information requested to be withheld reveals the distinguishing aspects of a methodology which was developed by Westinghouse.

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 Alloy 718 material 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.

Further the deponent sayeth not.

PROPRIETARY INFORMATION NOTICE

Transmitted herewith are proprietary and/or non-proprietary versions of documents furnished to the NRC in connection with Constellation Energy's submittal regarding jet pump beam inspection frequency.

In order to conform to the requirements of 10 CFR 2.390 of the Commission's regulations concerning the protection of proprietary information so submitted to the NRC, the information which is proprietary in the proprietary versions is contained within brackets, and where the proprietary information has been deleted in the non-proprietary versions, only the brackets remain (the information that was contained within the brackets in the proprietary versions having been deleted). The justification for claiming the information so designated as proprietary is indicated in both versions by means of lower case letters (a) through (f) located as a superscript immediately following the brackets enclosing each item of information being identified as proprietary or in the margin opposite such information. These lower case letters refer to the types of information Westinghouse customarily holds in confidence identified in Sections (4)(ii)(a) through (4)(ii)(f) of the affidavit accompanying this transmittal pursuant to 10 CFR 2.390(b)(1).

COPYRIGHT NOTICE

The reports transmitted herewith each bear a Westinghouse copyright notice. The NRC is permitted to make the number of copies of the information contained in these reports which are necessary for its internal use in connection with generic and plant-specific reviews and approvals as well as the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, order, or regulation subject to the requirements of 10 CFR 2.390 regarding restrictions on public disclosure to the extent such information has been identified as proprietary by Westinghouse, copyright protection notwithstanding. With respect to the non-proprietary versions of these reports, the NRC is permitted to make the number of copies beyond those necessary for its internal use which are necessary in order to have one copy available for public viewing in the appropriate docket files in the public document room in Washington, DC and in local public document rooms as may be required by NRC regulations if the number of copies submitted is insufficient for this purpose. Copies made by the NRC must include the copyright notice in all instances and the proprietary notice if the original was identified as proprietary.