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Serial: NPD-NRC-2014-003

10 CFR 52.79

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January 10, 2014

christopher.fallon@duke-energy.com

U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, D.C. 20555-0001

**LEVY NUCLEAR PLANT, UNITS 1 AND 2
DOCKET NOS. 52-029 AND 52-030
SUBMITTAL OF DECEMBER 18, 2013 PRESENTATION MATERIALS TO ADDRESS
CONTAINMENT CONDENSATE RETURN COOLING DESIGN AND REQUEST FOR
WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE**

Ladies and Gentlemen:

As requested, Duke Energy Florida, Inc. (DEF) hereby submits a proprietary and nonproprietary version of the presentation materials used by DEF and Westinghouse Electric Company LLC in the December 18, 2013 meeting concerning the Containment Condensate Return Cooling Design exemption for the Levy Nuclear Plant COLA.

Enclosure 1 (proprietary) contains the presentation entitled, "AP1000[®] Containment Condensate Return to IRWST: December 18 Meeting to Discuss Approach / Status". Enclosure 2 contains a redacted, non-proprietary version of the presentation materials.

As Enclosure 1 contains information proprietary to Westinghouse Electric Company LLC, it is supported by an Affidavit signed by Westinghouse, the owner of the information. The Affidavit sets forth the basis on which the information may be withheld from public disclosure by the Commission and addresses with specificity the considerations listed in paragraph (b)(4) of Section 2.390 of the Commission's regulations. Accordingly, it is respectfully requested that the information (Enclosure 1) which is proprietary to Westinghouse be withheld from public disclosure in accordance with 10 CFR Section 2.390 of the Commission's regulations.

Also enclosed is the Westinghouse Application for Withholding Proprietary Information from Public Disclosure CAW-13-3839 and accompanying Affidavit (Enclosure 3), and Proprietary Information Notice and Copyright Notice (Enclosure 4).

Correspondence with respect to the copyright or proprietary aspects of the items listed above, including the supporting Westinghouse Affidavit should reference CAW-13-3839 and should be addressed to James A. Gresham, Manager, Regulatory Compliance, Westinghouse Electric Company, Suite 428, 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.

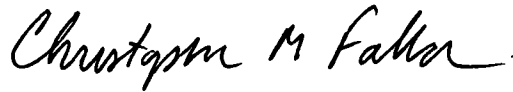
If you have any further questions, or need additional information, please contact Bob Kitchen at (704) 382-4046, or me at (704) 382-9248.

D094
NRD

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 10, 2014.

Sincerely,

A handwritten signature in black ink that reads "Christopher M. Fallon". The signature is fluid and cursive, with a period at the end.

Christopher M. Fallon
Vice President
Nuclear Development

Enclosures:

1. Westinghouse Presentation (PROPRIETARY)
2. Westinghouse Presentation (NON-PROPRIETARY VERSION)
3. Westinghouse Application Letter CAW-13-3839 and Affidavit
4. Proprietary Information Notice and Copyright Notice

cc : U.S. NRC Region II, Regional Administrator
Mr. Donald Habib, U.S. NRC Project Manager

Enclosure 3
Westinghouse Application Letter CAW-13-3839
and Affidavit
(7 pages including cover page)



Westinghouse Electric Company
Nuclear Power Plants
1000 Westinghouse Drive
Cranberry Township, Pennsylvania 16066
USA

Document Control Desk
U S Nuclear Regulatory Commission
Two White Flint North
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Rockville, MD 20852-2738

Direct tel: 412-374-6206
Direct fax: 724-940-8505
e-mail: winterjw@westinghouse.com
Project letter: APC_APG_000124

Our ref: CAW-13-3839

December 17, 2013

**APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE**

**Subject: Transmittal of AP1000® Containment Condensate Return to IRWST: December 18
Meeting to Discuss Approach/Status Presentation (Proprietary and Non-Proprietary)**

The proprietary information for which withholding is being requested in the above-referenced letter is further identified in the affidavit signed by Westinghouse Electric Company LLC. The affidavit accompanying this letter, sets forth the basis on which the information may be withheld from public disclosure by the Commission and address with specificity the considerations listed in paragraph (b) (4) of 10 CFR Section 2.390 of the Commission's regulations.

Accordingly, this letter authorizes the utilization of the accompanying affidavit by **APOG**.

Correspondence with respect to the proprietary aspects of this application for withholding or the accompanying affidavit should reference CAW-13-3839 and should be addressed to J. A. Gresham, Manager, Regulatory Compliance, Westinghouse Electric Company, Suite 428, 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.

Very truly yours,

A handwritten signature in black ink, appearing to read "James W. Winters".

James W. Winters
Manager, Passive Plant Technology


AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

SS

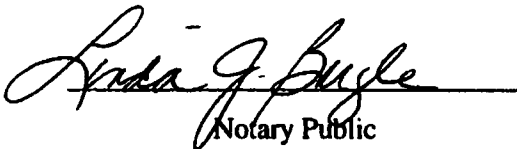
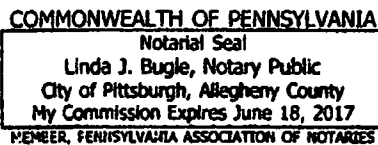
COUNTY OF BUTLER:

Before me, the undersigned authority, personally appeared **James W. Winters**, 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 W. Winters
Manager, Passive Plant Technology

Sworn to and subscribed
before me this 17th day
of December 2013.



Notary Public

- (1) I am Manager, Passive Plant Technology, 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" 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 constitute Westinghouse policy and provide 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 from within the **“AP1000® Containment Condensate Return to IRWST: December 18 Meeting to Discuss Approach/Status”** presentation (Proprietary) (APC_APG_000124), for submittal to the Commission, being transmitted by APOG 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 Transmittal of the **AP1000® Containment Condensate Return to IRWST: December 18 Meeting to Discuss Approach/Status”** presentation, and may be used only for that purpose.

The information requested to be withheld reveals details of the AP1000 design; timing and content of procurement; sequence and method of construction; and timing and content of inspection and testing. This information was developed and continues to be developed by Westinghouse. The information is part of that which enables Westinghouse to manufacture and deliver products to utilities based on proprietary designs.

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 commercial power reactors without commensurate expenses.

The information requested to be withheld 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.

Enclosure 4
Proprietary Information Notice and
Copyright Notice
(2 pages including cover page)

PROPRIETARY INFORMATION NOTICE

Transmitted herewith are proprietary and/or non-proprietary versions of documents furnished to the NRC in connection with requests for generic and/or plant-specific review and approval.

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.