

**REQUEST FOR ADDITIONAL INFORMATION
WESTINGHOUSE ELECTRIC COMPANY, LLC
ANNUAL CERTIFICATION OF THE PARENT COMPANY GUARANTEE
FOR FISCAL YEAR 2014
(TAC L33342, DOCKET 70-1151, 70-36)**

The Westinghouse Electric Company, LLC (Westinghouse), submitted documents to demonstrate their continued eligibility to the parent company guarantee as a means of financial assurance for decommissioning (Refs. 1, 2, and 3). The staff at the U.S. Nuclear Regulatory Commission (NRC) needs additional information to complete their technical review. The needed information, and the regulatory basis for the information, are as follows:

Auditor's Special Report

1. Item number 7 of the letter states one prong of the test to be \$10 million when the requirement is \$21 million. Correct the report to reflect the appropriate financial test.

Regulatory Basis: Title 10 of the *Code of Federal Regulations* (10 CFR) Part 30, Appendix A, Section II.A.2.(iii) requires the parent company to have a tangible net worth of at least \$21 million.

2. Revise the report to confirm the bond rating.

Regulatory Basis: 10 CFR Part 30, Appendix A, Section II.A.2.(i) requires the parent company to have a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, A, or BBB (including adjustments of + and –) as issued by Standard and Poor's or Aaa, Aa, A, or Baa (including adjustment of 1, 2, or 3) as issued by Moody's.

3. State that assets in U.S. dollars after deducting off-balance sheet transactions are at least six times the decommissioning costs. Correct the report to state assets in U.S. dollars after deducting out off-balance sheet transactions that are at least 6 times decommissioning costs.

Regulatory basis: Regulatory basis: 10 CFR Part 30, Appendix A, Section II.A.2.(iv) requires the parent company to have assets located in the U.S. amounting to at least 90 percent of the total assets or at least 6 times the current decommissioning cost estimates for the total of all facilities or parts thereof.

Letter from Toshiba

4. The financial calculation page does not include total net worth and incorrectly reflects a \$10 million tangible net worth requirement when it is a \$21 million requirement. Revise the letter to include total net worth and to reflect the appropriate financial test.

Regulatory basis: 10 CFR Part 30, Appendix A, Section II.A.2.(ii) requires that the parent company have a total net worth at least 6 times the amount of decommissioning funds being assured by a parent company guarantee for the total of all nuclear facilities or parts thereof (or prescribed amount if a certification is used). Appendix A, Section II.A.2.(iii) of

Enclosure

10 CFR Part 30, requires the parent company have a tangible net worth of at least \$21 million.

Parent Company Guarantee

5. The Toshiba bond rating does not state uninsured, uncollateralized, and unencumbered bond issuance, including stated adjustments. Correct the guarantee to include the full requirement.

Regulatory basis: 10 CFR Part 30, Appendix A, Section II.A.2.(i), requires the parent company to have a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, A, or BBB (including adjustments of + and –) as issued by Standard and Poor's or Aaa, Aa, A, or Baa (including adjustment of 1, 2, or 3) as issued by Moody's.

6. The guarantee incorrectly list one prong of the financial test as \$10 million. Correct the guarantee to reflect the appropriate financial test.

Regulatory basis: 10 CFR Part 30, Appendix A, Section II. A.2.(iii) requires the parent company have a tangible net worth of at least \$21 million.

7. Sections 7, 9, and 11 of the guarantee are inaccurate. Correct these sections for accuracy.

Section 7(a) should state, carry out the required activities to decommission these sites to meet NRC requirements.

Section 7(b) should state, pay into the standby trust fund the amount of the current cost estimates for these activities.

Section 9 should state, The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, it fails to meet the financial test criteria, the guarantor and the licensee shall send, within 90 days of the end of the fiscal year, by certified mail, a notice to NRC that the licensee intends to provide alternative financial assurance as specified in 10 CFR Parts 30, 40 and 70. Within 120 days after the end of the fiscal year, the guarantor shall establish such financial assurance if Westinghouse has not done so or make full payment under the guarantee to the standby trust fund.

Section 11 should state, The guarantor agrees that if it determines, at any time other than as described in Recital 9, that it no longer meets the financial test criteria or if NRC determines the guarantor is disallowed from continuing as a guarantor, the guarantor shall establish alternative financial assurance as specified in 10 CFR Parts 30, 40 and 70, as applicable, with 30 days, in the name of Westinghouse unless Westinghouse has done so.

Regulatory basis: 10 CFR Part 30, Appendix A, Section III, states requirements for using the parent company guarantee as a means of providing financial assurance of decommissioning.

8. Provide template language from Sections 17-19 from p. A-92 and A-93 of NUREG-1757, Vol. 3, Rev. 1 (Ref. 4). By e-mails between NRC and Westinghouse, the NRC staff acknowledged that Reference 4, page A-93, paragraph 19 refers to recital 17; instead, paragraph 19 should refer to recital 18, not to recital 17.

Regulatory basis: 10 CFR Part 30, Appendix A, Section III.E requires the guarantor to agree that it would be subject to Commission orders to make payments under the guarantee agreement.

Appendix A, Section III.F of 10 CFR Part 30 requires the guarantor to agree that if the guarantor enters stated conditions that jeopardize its ability to pay decommissioning costs, then the Commission may declare that the financial assurance guaranteed by the parent company guarantee agreement is immediately due and payable to the standby trust set up to protect the public health and safety and the environment, without diligence, presentment, demand, protest or any other notice of any kind, all of which are expressly waived by guarantor. The Commission may exercise any and all of its other rights under applicable law.

Appendix A, Section III.G of 10 CFR Part 30 requires a guarantor to agree to notify the NRC, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of title 11 (Bankruptcy) of the United States Code, or the occurrence of any other event listed in 10 CFR Part 30, Appendix A, Section III F of this Appendix, by or against the guarantor, the licensee, an entity controlling the licensee or listing the license or licensee as property of the estate; or an affiliate (as that term is defined in 11 U.S.C. 101[2]) of the licensee. The notification must include a description of the event, including major creditors, the amounts involved, and the actions taken to assure that the amount of funds guaranteed by the parent company guarantee for decommissioning will be transferred to the standby trust as soon as possible; If a petition of bankruptcy was filed, the identity of the bankruptcy court in which the petition for bankruptcy was filed; The date of filing of any petitions.

9. Provide a signed guarantee to acknowledge their responsibilities. Provide the witness/notary section.

Regulatory basis: 10 CFR 70.25 (e)(1)(v) each decommissioning funding plan must be submitted for review and approval and must contain a signed original, or if permitted, a copy, of the financial instrument.

References

1. Letter from M. Gutman, Westinghouse Electric Company, LLC, "Westinghouse Electric Company LLC Decommissioning Financial Assurance Parent Guarantee", July 25, 2014. ADAMS accession number ML14212A649.
2. Letter from J. Zorn, Westinghouse Electric Company, LLC, "Supplement to Westinghouse Electric Company LLC Decommissioning Financial Assurance Parent Guarantee (Toshiba Annual Report) (Docket Nos. 70-1151, 70-36, License Nos. SNM-1 107, SNM-33)", September 19, 2014. ADAMS accession number ML14268A526.

3. Letter from J. Gresham, Westinghouse Electric Company, LLC, "Submittal of Updated Auditor's Special Report", February 19, 2015. ADAMS accession number ML15057A053.
4. U.S. NRC, "Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness, Final Report" NUREG-1757, Vol. 3, Rev. 1, February 2012. ADAMS accession number ML12048A683.