



Westinghouse
Electric Corporation

Water Reactor
Divisions

Nuclear Technology Division

Box 355
Pittsburgh Pennsylvania 15230

Mr. Harold R. Denton, Director
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

July 23, 1981
CAW-81-41

SUBJECT: Facility Conceptual Design Description for the Technical Support
Center and the EOF

REF: Indiana & Michigan Electric Company Letter AEP:NRC:0531C, Hunter
to Denton, July 1981

Dear Mr. Denton:

The proprietary material for which withholding is being requested by Indiana & Michigan Electric Company is of the same technical type as that proprietary material submitted by Westinghouse previously in application for withholding AW-80-32, and was accompanied by an affidavit signed by the owner of the proprietary information, Westinghouse Electric Corporation.

Further, the affidavit AW-80-32 submitted to justify the previous material on June 13, 1980 is equally applicable to this material.

Accordingly, this letter authorizes the utilization of the previously furnished affidavit in support of the Indiana & Michigan Electric Company Donald C. Cook Nuclear Plants 1 and 2. A copy of the affidavit is attached.

In addition, it is noted that the same proprietary report was submitted June 19, 1981, AEP:NRC:0531A, Hunter to Denton. However, due to a misunderstanding, the wrong (CAW-80-75) application for withholding was referenced in that submittal. Please accept this application for withholding as a clarification supplement to the application for withholding and affidavit. Technical content of the proprietary report does not change with this submittal.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference CAW-81-41 and should be addressed to the undersigned.

Very truly yours,


Robert A. Wiesemann, Manager
Regulatory & Legislative Affairs

/bek
Attachment

cc: E. C. Shomaker, Esq.
Office of the Executive Legal Director, NRC

(8109230490 810914)
PDR ADDCK 05000315
F PDR

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF ALLEGHENY:

Before me, the undersigned authority, personally appeared Robert A. Wieseemann, 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 Corporation ("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:

Robert A. Wieseemann
Robert A. Wieseemann, Manager
Regulatory and Legislative Affairs

Sworn to and subscribed
before me this 5 day
of April 1980.

Robert A. Wieseemann
Notary Public

- (1) I am Manager, Regulatory and Legislative Affairs, in the Nuclear Technology Division, of Westinghouse Electric Corporation 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 or rule-making proceedings, and am authorized to apply for its withholding on behalf of the Westinghouse Water Reactor Divisions.
- (2) I am making this Affidavit in conformance with the provisions of 10CFR Section 2.790 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 Nuclear Energy Systems 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 2.790 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.
- (g) It is not the property of Westinghouse, but must be treated as proprietary by Westinghouse according to agreements with the owner.

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 which 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 in 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 10CFR Section 2.790, it is to be received in confidence by the Commission.
- (iv) The information sought to be protected is not available in public sources 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 WCAP-9725, "Westinghouse Technical Support Complex," (Proprietary), being transmitted by Westinghouse letter No. NS-TMA-2261, Anderson to Miller, dated June 13, 1980. This report is being submitted pursuant to the NRC's Topical Report Program for generic review by the Regulatory Staff and is expected to be referenced in several licensee and applicant submittals in response to certain NRC requirements resulting from the TMI-2 event.

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

- (a) Apply for patent protection.
- (b) Optimize control room operator and technical support personnel man-machine interface designs and criteria.
- (c) Assist its customers to obtain NRC approval.
- (d) Justify the design basis for the Technical Support Complex functions and inputs.

Further this information has substantial commercial value as follows:

- (a) Westinghouse plans to sell the system design and equipment described in part by the information.
- (b) Westinghouse plans to sell the use of the information to its customers for purposes of meeting NRC requirements for licensing documentation.
- (c) Westinghouse can sell testing services based upon the experience gained and the test equipment and methods developed.

Public disclosure of this information is likely to cause substantial harm to the competitive position of Westinghouse because (1) it would result in the loss of valuable patent rights; and (2) it would enhance the ability of competitors to design, manufacture, verify, and sell electrical equipment for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others having the same or similar equipment to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

The development of the equipment 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 engineering programs would have to be performed and a significant manpower effort, having the requisite talent and experience, would have to be expended for system design software development.

Further the deponent sayeth not.

