

Westinghouse
Electric Corporation

Power Systems
Company

PA 21-1111-100
B-10-85
Westinghouse Electric Corporation

November 2, 1976

AW-76-51

Mr. John F. Stolz, Chief
Light Water Reactors Project
Division of Project Management
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
7920 Norfolk Avenue
Bethesda, Maryland 20014

APPLICATION FOR WITHHOLDING PROPRIETARY
INFORMATION FROM PUBLIC DISCLOSURE

SUBJECT: PAD Code Models

REF.: Westinghouse Letter No. NS-CE-1262, Eicheldinger to Stolz,
dated November 2, 1976

Dear Mr. Stolz:

The proprietary material being transmitted by the referenced letter supplements proprietary material previously submitted concerning Westinghouse fuel rod designs and fuel rod performance.

Accordingly, withholding the subject information from public disclosure is requested in accordance with our previously submitted affidavit and application for withholding AW-76-43, dated October 18, 1976, a copy of which is attached.

Correspondence with respect to this application should reference AW-76-51 and should be addressed to the undersigned.

Very truly yours,


Robert A. Wiesemann, Manager
Licensing Programs

/smh

Attachment

cc: J. A. Cooke, Esq.
Office of the Executive Legal Director, NRC

8108240265 810818
PDR ADOCK 05000280
P 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, Manager
Licensing Programs

Sworn to and subscribed
before me this 18 day
of October 1976.


Notary Public

- (1) I am Manager, Licensing Programs, in the Pressurized Water Reactor Systems 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 connection with the provisions of 10 CFR Section 2.790 and Section 9.5(a)(4) of the Commission's regulations.
- (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 being withheld from public disclosure should continue to be withheld.
 - (i) The information being 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 was transmitted to the Commission in confidence, was received in confidence by the Commission, and was not submitted in a rulemaking proceeding.
- (iv) The information is not available in public sources to the best of our knowledge and belief.
- (v) The proprietary information being withheld are the Westinghouse reports: (1) "Densification of Recycle Mixed Oxide Compared to the Densification of UO_2 ," previously transmitted to the Commission on February 19, 1974, and (2) WCAP-8218, October 1973, "Fuel Densification, Experimental Results and Model for Reactor Application," previously transmitted to the Commission on October 29, 1973. This Affidavit and Westinghouse Letter No. NS-CE-1246, Eicheldinger to Felton, dated October 13, 1976, are being furnished in response to the September 13, 1976 NRC request for information in connection with a Freedom of Information Act request and to enable the NRC to determine whether it will continue to withhold the subject reports from public disclosure pursuant to the provisions of 10 CFR Section 9.5(a)(4) of the Commission's regulations.

This information enables Westinghouse to:

- (a) Justify the design basis for the fuel.
- (b) Justify the Westinghouse design correlations.
- (c) Reduce fuel needs of customers and reduce plant and fuel costs of customer.

Further, this information has substantial commercial value as follows:

- (a) Westinghouse sells the use of the information to its customers for purposes of meeting NRC requirements for licensing documentation.
- (b) Westinghouse uses the information to perform and justify analyses which are sold to customers.
- (c) Westinghouse uses the information to sell nuclear fuel and related services to its customers.

Public disclosure of this information is likely to cause substantial harm to the competitive position of Westinghouse in selling nuclear fuel and related services.

Westinghouse retains a marketing advantage by virtue of the knowledge, experience, and competence it has gained through long involvement and considerable investment in all aspects of the nuclear power generation industry. In particular, Westinghouse has developed a unique understanding of the factors and parameters which are variable in the process of design of nuclear fuel and which do affect the in-service performance of the fuel and its suitability for the purpose for which it was provided.

In all cases, that purpose is to generate energy in a safe and efficient manner while enabling the operating nuclear

generating station to meet all regulatory requirements affected by the core loading of nuclear fuel. Confidence in being able to accomplish this comes from the exercise of judgement based on experience, in the application of empirically derived models based on prior data and in the use of proven analytical models to simulate behavior of the fuel in normal operation and under hypothetical transients.

Thus, the essence of the competitive advantage in this field lies in an understanding of which analyses should be performed and in the methods and models used to perform these analyses. A substantial part of this competitive advantage will be lost if the competitors of Westinghouse are able to use the results of the analyses and by reverse engineering to normalize or verify their own methods or models or if they are able to claim an equivalent understanding by demonstrating that they can arrive at the same or similar results. Its use by a competitor would reduce his expenditure of resources or improve his competitive position in the design and licensing of a similar product.

This information is a product of Westinghouse design technology. As such, it is broadly applicable to the sale and licensing of fuel in pressurized water reactors. The development of this information is the result of many years of Westinghouse effort and the expenditure of a considerable sum of money. In order for competitors of Westinghouse

to duplicate this information and the computer programs and analytical techniques which we are seeking to protect by withholding this information, would require the investment of substantially the same amount of effort and expertise that Westinghouse possesses and which was acquired over a period of more than fifteen years and by the investment of millions of dollars. Over the years, this has included the development of heat transfer codes, nuclear analysis codes, transient analysis codes, core and system simulation methods, and an experimental data base to support them.

Further the deponent sayeth not.