

VIRGINIA ELECTRIC AND POWER COMPANY
RICHMOND, VIRGINIA 23261

August 17, 1977



Mr. Edson G. Case, Acting Director
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Serial No. 351B
PO&M/JTB:das
Docket Nos. 50-280
50-281
License Nos. DPR-32
DPR-37

Attention: Mr. Robert W. Reid, Chief
Operating Reactors Branch 4

Dear Mr. Case:

Attached herewith is certain information which is identified and marked as proprietary. This information is being submitted in conjunction with the document entitled, "Steam Generator Program, Surry Power Station, Unit Nos. 1 and 2" enclosed with our letter to you of August 17, 1977, Serial No. 351. The information which is proprietary is identified as such and includes sections 2.7.2 through 2.8. The section numbers are consistent with the format of the aforementioned report.

It is requested that the attached information be withheld from public disclosure in accordance with the provisions of 10 CFR 2.790. Attached hereto is an Affidavit which satisfies the requirements of 10 CFR 2.790 and sets forth the basis of our request.

Very truly yours,

E. M. Stallings
E. M. Stallings
Vice President-Power Supply
and Production Operations

Attachment

cc: Mr. James P. O'Reilly, Director
Region II

7723/0073

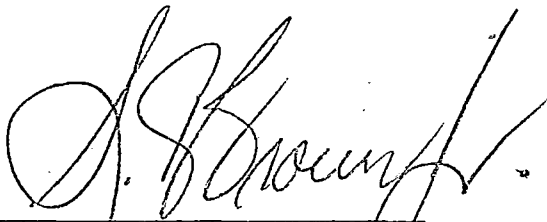
AFFIDAVIT
OF
MR. S. C. BROWN, JR.

IN THE MATTER OF
WITHHOLDING PROPRIETARY INFORMATION
ASSOCIATED WITH THE SURRY STEAM
GENERATOR REPAIR PROGRAM

COMMONWEALTH OF VIRGINIA:

CITY OF RICHMOND:

Before me, the undersigned authority, personally appeared S. C. Brown, Jr., who, being by me duly sworn according to law, deposes and says that he is authorized to execute this Affidavit on behalf of Virginia Electric and Power Company ("Vepco") and that the averments of fact set forth in this Affidavit are true and correct to the best of his knowledge, information, and belief:

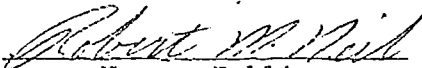


S. C. Brown, Jr.
Vice President-Power Station
Engineering and Construction

Sworn to and subscribed

before me this 17 day

of August 1977.



Notary Public

- (1) I am Vice President, Power Station Engineering and Construction and am authorized to apply for withholding the attached information on behalf of the Virginia Electric and Power Company.
- (2) I am making this Affidavit in conformance with the provisions of the United States Nuclear Regulatory Commission Regulations, Title 10, Code of Federal Regulations, Part 2.790 and in conjunction with the Vepco application for withholding certain information associated with the steam generator repair program which accompanies this Affidavit.
- (3) In my capacity as Vice President, I am obligated to fulfill certain contractual obligations of agreements executed by Vepco and other parties. In the matter to which this Affidavit applies, there exists a written contractual agreement between Vepco and the Westinghouse Electric Corporation (Westinghouse) which requires that Vepco treat certain information designated as "proprietary" which it receives from Westinghouse in a specified manner to assure that it does not become available to the public. Having purchased such equipment and "proprietary" information from Westinghouse, Vepco becomes co-owner of said equipment and information and is bound by the covenants set forth in the Contract to maintain such information as may be defined in the Contract as proprietary. Therefore, as a co-owner of certain information which accompanies this Affidavit, and in fulfillment of Vepco contractual obligations, I must act, just as Westinghouse would have to act, and for the same reasons, to request that certain information be declared proprietary in the context of 10 CFR 2.790.

(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 and Vepco.

(ii) The information is of a type customarily held in confidence by Westinghouse and by Vepco under contractual obligations, 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. As co-owners of such information and in fulfillment of certain Vepco contractual obligations, Vepco must use the same system adopted by Westinghouse to assure the uniform application of the Contract provisions.

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 to Westinghouse, 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 a competitor would put Westinghouse at a competitive disadvantage by reducing its expenditure of resources at Westinghouse 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 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 the attachment to this Affidavit and which supports the Vepco document "Steam Generation Program, Surry Power Station, Unit Nos. 1 and 2," forwarded to Commission in our letter of August 17, 1977, Serial No. 351. This information enables Vepco to:
 - (a) Justify the Westinghouse design and design basis of the replacement steam generators,

(b) Assists Vepco in describing the proposed repair program, including a discussion of analytical and engineering studies, presentation of certain compilation of data and presentation of certain drawings which describes the steam generators in detail.

Further, the information contained in the submittal is of commercial value and is sold for considerable sums of money as follows:

(a) Vepco itself purchased the equipment and supporting information for considerable monies.

(b) Westinghouse has potential customers to whom this information may be sold in the future.

Public disclosure of this information concerning the steam generators and design improvements incorporated therein could cause, in Westinghouse's estimation, substantial harm to its competitive position by allowing its competitors to develop similar products, improvements, or techniques at a much reduced cost.

The design presented represents a considerable amount of highly qualified development effort, which has been in progress for some time. If a competitor were able to use the results of the design or portions thereby to establish its own design, the development effort and monetary expenditure required to achieve an equivalent design would be significantly reduced. In total, a substantial amount of money and effort has been expended by Westinghouse which could only be duplicated by a competitor if he were to invest similar sums of money and provided he had the appropriate talent available.

Further the deponent sayeth not.