



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001
October 16, 2019

Ms. Cheryl A. Gayheart
Regulatory Affairs Director
Southern Nuclear Operating Company, Inc.
3535 Colonnade Parkway
Birmingham, AL 35243

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
FOR JOSEPH M. FARLEY NUCLEAR PLANT, UNITS 1 AND 2 – RE:
WCAP-18414-P "J. M. FARLEY UNITS 1 AND 2 SPENT FUEL POOL
CRITICALITY SAFETY ANALYSIS" (EPID L-2019-LLA-0212)

Dear Ms. Gayheart:

By letter dated September 30, 2019 (Agencywide Documents Access and Management System Accession (ADAMS) Package No. ML19275E393), Ms. Cheryl A. Gayheart of Southern Nuclear Operating Company submitted an affidavit dated September 12, 2019, executed by Camille T. Zozula on behalf of Westinghouse Electric Company LLC (Westinghouse), requesting that the information contained in Attachment 4 to the letter, as described below, be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390:

WCAP-18414-P "J. M. Farley Units 1 and 2 Spent Fuel Pool Criticality Safety Analysis"
(Proprietary Version)

A nonproprietary version of Attachment 4 was provided as Attachment 5 and can be found at ADAMS Accession No. ML19275E312.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (4) Pursuant to 10 CFR 2.390, 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 is of a type customarily held in confidence by Westinghouse and not customarily disclosed to the public.
 - (ii) 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 technical evaluation justifications and licensing defense services for commercial power reactors without commensurate expenses. Also, public disclosure of the information would enable others to use the information to meet NRC requirements for licensing documentation without purchasing the right to use the information.

- (5) Westinghouse has policies in place to identify proprietary information. 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 competitive economic advantage (e.g., by optimization or improved marketability).
 - (c) Its use by a competitor would reduce his expenditure or 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.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, Attachment 4 will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the U.S. Nuclear Regulatory Commission (NRC). You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

If you have any questions regarding this matter, please contact me at (301) 415-1009 or Shawn.Williams@nrc.gov.

Sincerely,

/RA/

Shawn A. Williams, Senior Project Manager
Plant Licensing Branch II-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket Nos. 50-348 and 50-364

cc: Camille T. Zozula, Manager
Infrastructure & Facilities Licensing
Westinghouse Electric Company
1000 Westinghouse Drive, Suite 165
Cranberry Township, PA 16066

Listserv

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DATE	10/15/2019	10/08/19	10/15/2019	10/16/2019	10/16/2019

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