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USA

U.S. Nuclear Regulatory Commission  
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LTR-NRC-12-18

February 17, 2012

**Subject: Westinghouse Response to December 16, 2011 NRC Letter Regarding Nuclear Fuel Thermal Conductivity Degradation (TAC No. ME5186) (Proprietary)**

References:

1. Letter, T. J. McGinty (NRC) to J. A. Gresham (Westinghouse), "Nuclear Fuel Thermal Conductivity Degradation Evaluation for Light Water Reactors Using Westinghouse Codes and Methods (TAC No. ME5186)," dated December 16, 2011
2. Letter, J. A. Gresham (Westinghouse) to USNRC Document Control Desk, LTR-NRC-12-3, "Submittal of LTR-NRC-12-3 P-Enclosure, 'January 5, 2012 Conference Call Summary Regarding Nuclear Fuel Thermal Conductivity Degradation (TAC No. ME5186)' (Proprietary)," dated January 13, 2012

Westinghouse Electric Company LLC (Westinghouse) has reviewed the Nuclear Regulatory Commission (NRC) letter dated December 16, 2011 (Reference 1) regarding evaluation of nuclear fuel thermal conductivity degradation (TCD) for light water reactors using Westinghouse codes and methods. On January 5, 2012, Westinghouse and NRC staff held a conference call (Reference 2) to discuss the NRC letter and provide preliminary feedback on our plans for a response. Westinghouse is committed to continuing to work with industry in supporting the response to the NRC concerns in the near term and to advancing its methodologies to explicitly include the effects of TCD.

Enclosed is the proprietary document of "Westinghouse Response to December 16, 2011 NRC Letter Regarding Nuclear Fuel Thermal Conductivity Degradation (TAC No. ME5186)".

Also enclosed are:

1. One (1) copy of the Application for Withholding Proprietary Information from Public Disclosure, AW-12-3398 (Non-Proprietary), with Proprietary Information Notice and Copyright Notice.
2. One (1) copy of Affidavit (Non-Proprietary).

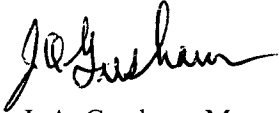
The enclosure to this letter contains proprietary information of Westinghouse Electric Company LLC. In conformance with the requirements of 10 CFR Section 2.390, as amended, of the Commission's regulations, we are enclosing with this letter an Application for Withholding Proprietary Information from Public Disclosure and an affidavit. The affidavit sets forth the basis on which the information identified as proprietary may be withheld from public disclosure by the Commission.

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NRR

The subject document was prepared and classified as Westinghouse Proprietary Class 2. Westinghouse requests that the document be considered proprietary in its entirety. As such, a non-proprietary version will not be issued.

Correspondence with respect to the proprietary aspects of the application for withholding or the Westinghouse affidavit should reference AW-12-3398 and should be addressed to J. A. Gresham, Manager, Regulatory Compliance, Westinghouse Electric Company, Suite 428, 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. A. Gresham". The signature is written in a cursive style with a large initial "J" and "G".

J. A. Gresham, Manager  
Regulatory Compliance

Enclosures

cc: T. J. McGinty (NRC)  
A. J. Mendiola (NRC)  
E. Lenning (NRC)



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AW-12-3398

February 17, 2012

APPLICATION FOR WITHHOLDING PROPRIETARY  
INFORMATION FROM PUBLIC DISCLOSURE

**Subject: LTR-NRC-12-18 P-Attachment, "Westinghouse Response to December 16, 2011 NRC Letter Regarding Nuclear Fuel Thermal Conductivity Degradation (TAC No. ME5186)" (Proprietary)**

Reference: Letter from J. A. Gresham to Document Control Desk, LTR-NRC-12-18, dated February 17, 2012

The Application for Withholding Proprietary Information from Public Disclosure is submitted by Westinghouse Electric Company LLC (Westinghouse), pursuant to the provisions of paragraph (b)(1) of Section 2.390 of the Commission's regulations. It contains commercial strategic information proprietary to Westinghouse and customarily held in confidence.

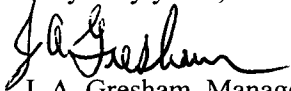
The proprietary information for which withholding is being requested is the subject document in its entirety. In conformance with 10 CFR Section 2.390, Affidavit AW-12-3398 accompanies this Application for Withholding Proprietary Information from Public Disclosure, setting forth the basis on which the identified proprietary information may be withheld from public disclosure.

The subject document was prepared and classified as Westinghouse Proprietary Class 2. Westinghouse requests that the document be considered proprietary in its entirety. As such, a non-proprietary version will not be issued.

Accordingly, it is respectfully requested that the subject information which is proprietary to Westinghouse be withheld from public disclosure in accordance with 10 CFR Section 2.390 of the Commission's regulations.

Correspondence with respect to the proprietary aspects of the application for withholding or the accompanying affidavit should reference AW-12-3398 and should be addressed to J. A. Gresham, Manager, Regulatory Compliance, Westinghouse Electric Company, Suite 428, 1000 Westinghouse Drive, Cranberry Township, Pennsylvania 16066.

Very truly yours,

  
J. A. Gresham, Manager  
Regulatory Compliance

Enclosures

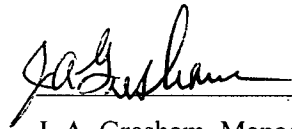
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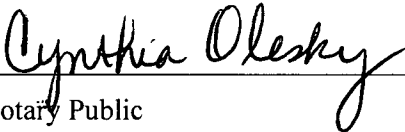
COUNTY OF BUTLER:

Before me, the undersigned authority, personally appeared J. A. Gresham, 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 Company LLC (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:

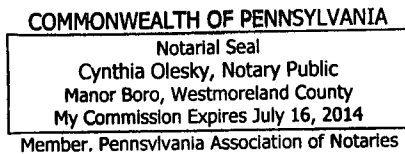


\_\_\_\_\_  
J. A. Gresham, Manager  
Regulatory Compliance

Sworn to and subscribed before me  
this 17th day of February 2012



\_\_\_\_\_  
Notary Public



- (1) I am Manager, Regulatory Compliance, in Nuclear Services, Westinghouse Electric Company LLC (Westinghouse), 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 and rule making proceedings, and am authorized to apply for its withholding on behalf of Westinghouse.
- (2) I am making this Affidavit in conformance with the provisions of 10 CFR Section 2.390 of the Commission's regulations and in conjunction with the Westinghouse Application for Withholding Proprietary Information from Public Disclosure accompanying this Affidavit.
- (3) I have personal knowledge of the criteria and procedures utilized by Westinghouse 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 2.390 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.

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 that 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 of 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 10 CFR Section 2.390, it is to be received in confidence by the Commission.
- (iv) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of our knowledge and belief.
- (v) The proprietary information sought to be withheld in this submittal is that which is contained in LTR-NRC-12-18 P-Attachment, "Westinghouse Response to December 16, 2011 NRC Letter Regarding Nuclear Fuel Thermal Conductivity Degradation (TAC No. ME5186)" (Proprietary), for submittal to the Commission, being transmitted by Westinghouse letter LTR-NRC-12-18, and Application for Withholding Proprietary Information from Public Disclosure, to the Document Control Desk. The proprietary information as submitted by Westinghouse is that associated with the information requested by the NRC in its December 16, 2011 letter to Westinghouse regarding Nuclear Fuel Thermal Conductivity Degradation.

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

- (a) Document information regarding the NRC's Nuclear Fuel Thermal Conductivity Degradation concerns as stated in its December 16, 2011 letter.

Further, this information has substantial commercial value as follows:

- (b) The information requested to be withheld reveals Westinghouse commercial strategy information.

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 gain knowledge of our commercial strategies.

Further the deponent sayeth not.