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December 4, 1989

FEDERAL EXPRESS

Thomas E. Kotoske, Esq.
540 University Avenue
Third Floor
Palo Alto, CA 94301

Re: Nevada Power Co. v. Westinghouse

Dear Mr. Kotoske:

Your letter dated November 27, 1989, regarding the responses of Westinghouse Electric Corporation to plaintiff's Interrogatories and Requests for Admissions was received by us on November 28. I have reviewed the contents of your letter with various Westinghouse representatives. Although we found that the thrust of your initial discovery requests was beyond the scope of the discovery set by the court, and that some of the language in the requests was ambiguous, Westinghouse, in the spirit of full disclosure, nevertheless responded to the requests.

You have identified 14 documents as to which you claim Westinghouse's responses were inadequate regarding your request that Westinghouse admit the genuineness of these documents. You claim that because most of these documents were created and authored by Westinghouse, that Westinghouse should not deny their genuineness. There were, however, valid reasons for the denials.

As reflected in Westinghouse's responses, one of the fourteen documents at issue (documents 133-134) contained handwriting and other markings. Westinghouse states that, to the best of its knowledge, the copies of the documents submitted to Westinghouse for identification are genuine without the markings.

As to five documents (66-68, 96-99, 137-139, 142-143, and 181-183), Westinghouse's responses to plaintiff's Requests for Admissions expressly states that each of these pages are only part of a larger document, the other pages of which were not the subject of plaintiff's request. Consequently, to the extent that these five documents, as presented to Westinghouse for identification, are incomplete, Westinghouse cannot state that they are

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genuine. Nevertheless, in the spirit of disclosure, Westinghouse indicated in its response that the pages of the five documents submitted to Westinghouse for identification are true and correct copies of the original or best copy in its possession and are, therefore, genuine. Westinghouse, at this time, specifically states that, to the best of its knowledge, the copies of the five documents submitted to Westinghouse are genuine photocopies or best copies in the possession of Westinghouse as to the pages submitted, except for the following noted marks that do not appear on the original or best copy of the page in the possession of Westinghouse:

<u>Page</u>	<u>MARK</u>
96	"W VIII 2A" file 120 on the top
97	W VIII 2B on the top
98	W VIII 2C on the bottom and on the top as follows: Page 3 from <u>Instructions for Handling Interteen Insulating Fluid P.D.S. 54201 CM Westinghouse Electric Corporation I.B. 45-063-99C Effective August 1971 supersedes P.B. 45-063-99B September 1968</u>
99	W VIII 2D on the top
137	Prepared by Dr. T.K. Sloat from the Power Transformer Division at Sharon, Pennsylvania received by Bloomington Westinghouse Mar. 29, 1972 on the top and some writing that is not legible on the right hand margin and "Page 1" in the lower right hand corner
138	Illegible handwriting on the top, underlining and handwritten notes on the bottom as follows: Safe Practice Data Sheet Revised 11-15-72 Westinghouse Electric Corporation Industrial Hygiene Laboratory, East Pittsburgh, PA.
139	Handwritten note on top as follows: Page 3 from: <u>Instructions for Handling Interteen Insulating Fluid P.D.S. 54201 CM Westinghouse Electric Corporation I.B. 45-063-99C Effective August 1971 supersedes I.B. 45-063-99B September 1968</u>
142	Handwritten language on the top and in the right hand margin and the underlining
143	W IIB on the top

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182 1976 on the top

With respect to documents 2-10 and 163, our prior answer was correct. To the best of our knowledge and belief, these are not Westinghouse documents, and there are no originals or copies of the documents in the files. However, Westinghouse has no reason to believe they are not genuine.

As to documents 75 and 77-78 Westinghouse states that these are genuine and accurate retyped copies of documents 76 and 79, the genuineness of which Westinghouse had previously admitted with the exception of the markings.

Regarding documents 135-136, 145, and 147-154 Westinghouse advises that it does not have an original or a photocopy and therefore cannot make a determination whether or not these documents are genuine, but they appear to be Westinghouse documents and Westinghouse has no reason to believe that they are not genuine with the exception of the markings on pages 148, 151, 152, and 153.

Regarding documents 178-180 Westinghouse admits that this is a true and correct copy, with the exception of the notation in the right margin on page 178, of an EPA issued document from a document by D.M. Sauter, a Westinghouse employee.

Although Westinghouse disagrees with your contention that the discovery you propounded does not exceed the scope of discovery, notwithstanding its objection, Westinghouse fully responded to your discovery requests with no information being withheld based on this objection. As to your comment on the "unacceptability" of Westinghouse's statement that it will not respond until plaintiff ". . . identifies the source from which it obtained these documents," please note that Westinghouse's response contained no such statement.

With respect to your comments on Westinghouse's responses to specific interrogatories in the Adams v. Kentucky Power case, our response in this case was consistent with the response in the Adams case.

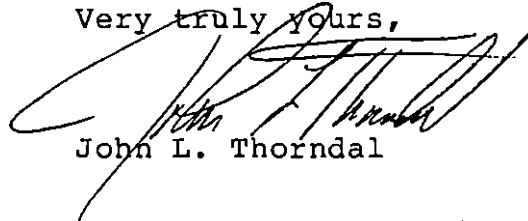
Finally, Westinghouse's response to Interrogatory No. 2 was neither evasive nor contrived. The interrogatory requested the identity of the person at Monsanto most knowledgeable about how the documents at issue are maintained at Westinghouse.

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Westinghouse is not in a position to identify the person at Monsanto with this knowledge. Accordingly, it responded by stating that the identity of the person is "unknown" to Westinghouse. Westinghouse stands by this response. Further, Westinghouse would object to any attempt to depose a Westinghouse employee as to the authenticity of Monsanto documents as referred to in the last paragraph on page 4 of your November 27 correspondence.

We trust that the above clarifies Westinghouse's position on its responses and obviates the need for a sincere efforts conference and motion practice on plaintiff's discovery requests.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'John L. Thorndal', is written over the typed name. The signature is stylized with a large, sweeping initial 'J' and 'T'.

John L. Thorndal

JLT/ad

cc: J. RANDALL JONES, ESQ. - HAND DELIVERED
JONES, JONES, CLOSE & BROWN