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ATTN: Rulemaking and Adjudications Staff
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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

STRATEGIC TEAMING AND RESOURCE SHARING (STARS)
COMMENTS ON PROPOSED RULE TO REVISE FEE SCHEDULES
(67 FR 14818)

Gentlemen:

Attached are comments from the Strategic Teaming and Resource Sharing (STARS)¹ nuclear power plants on the Nuclear Regulatory Commission's (NRC) proposed rule to revise fee schedules as published in the Federal Register on March 27, 2002 (67FR14818). The STARS review and comments focus on one aspect of the proposed rule, the revisions that relate to fee waivers. The NRC has an opportunity, through fee waivers, to encourage regulatory improvements that could increase safety, provide more efficient processes, and reduce unnecessary regulatory burden. The proposed rule does not take advantage of this opportunity and may actually serve as a roadblock to such regulatory improvement.

In the current regulations, fee waivers are discussed in Footnote 4 to 10 CFR 170.21 and Footnote 5 to 10 CFR 170.31. The proposed rule relocates the fee waiver information to 10 CFR 170.11, Exemptions, and revises the criteria. The revised criteria adds restrictions based upon the purpose of the submittal, when the fee waiver is requested, and the NRC intentions with respect to the submittal. Examples of types of submittals that do and do not meet the new criteria are also provided in the proposed rule.

Relocation of Fee Waiver Requirements

Relocating the fee waiver requirements adds a degree of formality to the process. It is not clear why this formality is necessary. Such formality costs the industry and the NRC resources and

¹ STARS consists of six plants operated by TXU Generation Company LP, AmerenUE, Wolf Creek Nuclear Operating Corporation, Pacific Gas and Electric Company, STP Nuclear Operating Company and Arizona Public Service Company.

time. It creates a minor roadblock for the industry. The only justification provided in the federal register notice is that the exemption section is a more "suitable" location. That does not seem to be sufficient justification for the increase in regulatory burden. STARS recommends that the requirements not be relocated.

New Fee Waiver Criteria

Frequently, licensees embark on "ground breaking" licensing action. These actions are often in the form of an exemption request or a relief request although they may also be a license amendment request, etc. As the first plant to request such action, the review costs may be significant. The result, however, is an assessment which may contribute to generic regulatory activity and which may serve as a significant precedence for other licensees. It is through such efforts that many safety improvements, burden reductions, improved processes, etc. result. Such "pioneering" by licensees should be encouraged and supported by the NRC. The proposed rule does just the opposite.

Without some relief in the review fees, why should a licensee be first? It would be less expensive to let someone else lead and submit later, when the review costs would be significantly less. The end result would be a slowing down of the evolution/development of the overall regulatory process and some beneficial changes may never occur. In particular, an area that would benefit from cost waivers is the "risk informed" actions. Several examples from the past include risk informed ISI, risk informed IST, and risk informed QA.

A possible solution is to make some additions. A new paragraph should be added which might read something like this:

"(iv) To request action for a specific licensee(s), but which also has the potential to result in final products which could provide a useful precedent to additional licensees or which could contribute to the development of generic regulatory improvements."

The Statement for Consideration for this addition should make the following points:

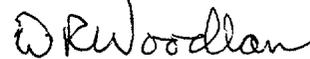
- (A) The waiver of fees is intended primarily for lead licensee(s) for the type of activity being addressed,
- (B) An example of an activity that would meet this fee waiver criteria is a exemption request that pursues a generically applicable risk informed alternative to a currently deterministic regulatory requirement.
- (C) An example of an activity that would not meet this requirement is a topical report submitted by or on behalf of an owners group and which would be limited in its applicability to the members of that group.
- (D) It is preferable, but not required, that the request be made prior to or concurrent with the submittal for the special project to the NRC.

(E) The exemption request to waive fees shall include the amount to be waived, either in a dollar amount or as a percentage (up to and including 100%) of the normal fee.

In summary, the NRC has an opportunity to establish a rule that encourages the development of regulatory processes and requirements. However, the new restrictions in items [A] through [D] of proposed sub-paragraph (iii), as currently structured, may serve as impediments to the continued development of improved regulations and regulatory processes.

The STARS plants appreciate the opportunity to comment on the NRC's proposed rule to revise fee schedules. If there are any questions regarding these comments, please contact me at 254-897-6887 or dwoodla1@txu.com.

Sincerely,



D. R. Woodlan, Chairman
Integrated Regulatory Affairs Group
STARS