

January 31, 2003

Omaha Public Power District
ATTN: S. K. Gambhir
Division Manager, Nuclear Projects
444 South 16th Street Mall
Omaha, NE 68102-2247

Dear Mr. Gambhir:

I am responding to your August 22, 2002, letter requesting a waiver or reduction of 10 CFR Part 170 review fees for the Fort Calhoun Station (FCS) license renewal application. As explained below, I have concluded that a partial fee exemption is appropriate.

Your request for a fee reduction is based on 10 CFR 170.11(b)(1), which states, "The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of this part as it determines are authorized by law and are otherwise in the public interest."

The bases for your request are: 1) Omaha Public Power District (OPPD) actively supported industry effort through the Nuclear Energy Institute (NEI) to work with the NRC to develop a stable and efficient license renewal process by participating in an extensive NRC/industry demonstration project providing the model format which was ultimately preferred by the NRC and subsequently used for the FCS application; 2) the NRC sufficiency review of the FCS application revealed significant "lessons learned" which were not disclosed as necessary by the NRC during the demonstration project, resulting in OPPD spending additional and unplanned resources re-drafting portions of the FCS application and delaying both the completion of the sufficiency review and docketing of the application; 3) the revised FCS license renewal application is a "first-of-a-kind" model that will facilitate NRC's review of it and similar future licensing actions, thereby benefitting the NRC, the nuclear industry, and the public by the implementation of this new license renewal process; and 4) the FCS application will aid the NRC in its ongoing development of supplementary regulatory guidance, as well as revisions to NUREG-1800 and NUREG-1801.

With regard to your first basis, your contributions to industry efforts do not justify a fee waiver. Many utilities contributed to the development of and improvements to the NRC's license renewal process. In addition to the NEI License Renewal Task Force, other industry representatives and interested members of the public provided comments and suggestions on the proposed improvements to the license renewal process and associated regulatory guidance. Your second basis concerning the NRC sufficiency review, resulting in OPPD expending additional and unplanned resources re-drafting portions of the application, has no bearing on whether or not the NRC should grant a partial waiver. This is because the NRC does not base fees on licensee's costs, but instead on costs incurred by the NRC staff during licensing activities.

With respect to your third and fourth bases, I find merit in your assertions that the application serves as a "first-of-a-kind" model, and will assist the NRC staff in future regulatory guidance development. On January 9, 2002, OPPD submitted the first license renewal application prepared in accordance with NUREG-1800, "Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants" (SRP), and NUREG-1801, "Generic Aging Lessons Learned Report" (GALL). The staff found that the license renewal application format and content was consistent with that agreed to by the participants in the GALL Demonstration Project. However, during the sufficiency review OPPD and the NRC staff agreed that some additional on-site information should be included in the license renewal application to make it more complete. By its letter dated March 14, 2002, the NRC staff stated that the supplemental information required in the application would be considered an additional lesson learned from the GALL Demonstration Project, and would be incorporated into a future revision of NUREG-1800.

Based on the foregoing information, I have determined that a reduction of the 10 CFR Part 170 fees for the review of OPPD's January 9, 2002, license renewal application is appropriate. This exemption is authorized by law and is granted in accordance with 10 CFR Part 170.11(b). Accordingly, we have revised Invoice RL0416-02 by deducting the hours the NRC staff spent on the sufficiency review of the application material from January 9, 2002, through March 14, 2002. During this time frame, a total of 669.8 hours were charged by the NRC staff for the sufficiency review, totaling \$100,470. Therefore, 353.8 hours have been deleted from Technical Assignment Control (TAC) MB3401, "License Renewal Application Safety Review," and 316.0 hours have been deleted from Budget and Reporting Number 102130, "PM (project manager) Renewal Application Reviews." The revised invoice is enclosed, and a refund check will be sent to OPPD in the amount of \$100,470 within 30 days from the date of this letter.

If you have any questions, please contact Ellen Poteat of my staff at 301 415-6392.

Sincerely,

\RAI
Jesse L. Funches
Chief Financial Officer

Enclosures: As stated

With respect to your third and fourth bases, I find merit in your assertions that the application serves as a "first-of-a-kind" model, and will assist the NRC staff in future regulatory guidance development. On January 9, 2002, OPPD submitted the first license renewal application prepared in accordance with NUREG-1800, "Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants" (SRP), and NUREG-1801, "Generic Aging Lessons Learned Report" (GALL). The staff found that the license renewal application format and content was consistent with that agreed to by the participants in the GALL Demonstration Project. However, during the sufficiency review OPPD and the NRC staff agreed that some additional on-site information should be included in the license renewal application to make it more complete. By its letter dated March 14, 2002, the NRC staff stated that the supplemental information required in the application would be considered an additional lesson learned from the GALL Demonstration Project, and would be incorporated into a future revision of NUREG-1800.

Based on the foregoing information, I have determined that a reduction of the 10 CFR Part 170 fees for the review of OPPD's January 9, 2002, license renewal application is appropriate. This exemption is authorized by law and is granted in accordance with 10 CFR Part 170.11(b). Accordingly, we have revised Invoice RL0416-02 by deducting the hours the NRC staff spent on the sufficiency review of the application material from January 9, 2002, through March 14, 2002. During this time frame, a total of 669.8 hours were charged by the NRC staff for the sufficiency review, totaling \$100,470. Therefore, 353.8 hours have been deleted from Technical Assignment Control (TAC) MB3401, "License Renewal Application Safety Review," and 316.0 hours have been deleted from Budget and Reporting Number 102130, "Project Manager (PM) Renewal Application Reviews." The revised invoice is enclosed, and a refund check will be sent to OPPD in the amount of \$100,470 within 30 days from the date of this letter.

If you have any questions, please contact Ellen Poteat of my staff at 301 415-6392.

Sincerely,

\RAI

Jesse L. Funches
Chief Financial Officer

Enclosures: As stated

Distribution:

L. Tremper, OCFO/DAF/LFARB
OCFO/DAF/LFARB RF (DAF-2-236a)
OCFO/DAF/LFARB SF (LF3.1.5)
OCFO/DAF RF (DAF 2002-349)

ADAMS Yes No

Initials _MEP_

Publicly Available

Non-Publicly Available

Sensitive

Non-Sensitive

DOCUMENT NAME: C:\ORPCheckout\FileNET\ML030900089.wpd

To receive a copy of this document, indicate in the box: "C" = Copy **without** attachment/enclosure

"E" = Copy **with** attachment/enclosure

"N" = No copy.

OFFICE	OCFO/DAF/LFARB	OCFO/DAF/LFARB	DNRR	OGC
NAME	EPoteat/RCarlson	GJackson/DDandois	SCollins	TRothschild
DATE	1/22/03	1/22/03	1/29/03	1/23/03
OFFICE	OCFO/DAF	DCFO	CFO	
NAME	CLTurner	PJRabideau	JLFunches	
DATE	1/24/03	1/30/03	1/31/03	

OFFICIAL RECORD COPY = No copy