

May 12, 2006

Mr. J. E. Conen, Chairman  
BWR Owners' Group  
Detroit Edison  
6400 North Dixie Highway  
Newport, MI 48166

Dear Mr. Conen:

This is in response to your March 30, 2006, letter requesting a fee waiver for the review of the Licensing Topical Report, NEDO-33163, "*High Burn Up BWR Fuel Rod Gap Release Fractions*." The letter cites 10 CFR (a)(1)(ii) and (iii) as the bases for your request for a waiver of fees associated with the review of the Report. Based on my review of the request and information from the U.S. Nuclear Regulatory Commission's (NRC) technical staff, I am denying your request for a fee waiver for the reasons noted below.

Under 10 CFR 170.11 (a)(1)(ii), a report submitted to the NRC for review may be fee exempt if it is in response to a NRC request at the Associate Office Director level or above. This Licensing Topical Report (LTR) was not requested by a senior NRC official. To receive a fee exemption under 10 CFR 170.11(a)(1)(iii), a requestor has to demonstrate that the document submitted for the NRC's review is specifically for the purpose of supporting the NRC's generic regulatory improvements. While the NRC is working on a revision to Regulatory Guide 1.183, removal of footnote 11 which contains a limitation related to the gap fractions for high burnup fuel, is not part of the planned revision. The NRC can continue to license plants without incorporating this LTR in the Guide. In addition, 10 CFR 170.11(a)(1)(iii)(C) states that fees will not be waived for reviews of reports that are not submitted specifically for the purpose of supporting the NRC's generic regulatory improvements, because the primary beneficiary for review of such documents is the requesting organization. Therefore, in these instances, fee waivers will not be granted even though the NRC may realize some benefit from the review and approval of the document. Because the NRC's review of the LTR would primarily benefit the BWR Owners' Group and its members, I am denying the requested fee exemption.

If you have any technical questions regarding this matter, please contact Michelle Honcharik at 301-415-1774. For any fee waiver related questions, please contact Renu Suri of my staff at 301-415-0161.

Sincerely,

/RA/

Jesse L. Funches  
Chief Financial Officer

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Chief Financial Officer

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