

MAR 27 1992

R. Scroggins

Mr. Lawrence A. Walsh, Chairman
Westinghouse Owners Group
c/o Public Service Company of New Hampshire
Seabrook Station
P.O. Box 300
Seabrook, New Hampshire 03874

Dear Mr. Walsh:

I am responding to your letter dated February 27, 1992 (OG 92-13), in which you requested an exemption from the fee requirements of 10 CFR 170.12(f) for all topical reports submitted by WOG to the NRC for review.

Your request for an exemption from full cost recovery for topical report submittals is denied. Our denial is based on the following considerations:

1. Fees assessed under 10 CFR 170 are intended to recover the costs of the NRC of providing identifiable services to applicants and holders of NRC licenses. The review and approval of a topical report is an example of a specific identifiable service provided by the NRC and the Owners Group is the recipient of that service.
2. Based upon the 100% fee recovery principle and Congressional guidance that each licensee or applicant pay the full cost of all identifiable regulatory services received from the NRC, it would not be fair and equitable to waive the fees for the review of all topical reports filed by the Owners Group since it would result in an adverse impact on other licensees or applicants who would be required to make up the costs for the review of the WOG topical reports.

In the development of the 100% fee recovery rule, consideration was given to comments such as yours regarding the removal of the ceiling for topical reports. However, the Commission in deciding to eliminate the ceiling stated "topical report reviews vary significantly depending on the particular topical report reviewed and therefore make it impractical to establish an equitable ceiling or flat fee."

Sincerely,

/s/
Ronald M. Scroggins
Deputy Chief Financial
Officer/Controller

Mr. Lawrence A. Walsh

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In the development of the 100% fee recovery rule, consideration was given to comments such as yours regarding the removal of the ceiling for topical reports. However, the Commission in deciding to eliminate the ceiling stated "topical report reviews vary significantly depending on the particular topical report reviewed and therefore make it impractical to establish an equitable ceiling or flat fee."

Sincerely,

Original signed by
Ronald M. Scroggins

Ronald M. Scroggins
Deputy Chief Financial
Officer/Controller

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Westinghouse Owners Group

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Florida Power & Light
Houston Lighting & Power
New York Power Authority
Northeast Utilities
Northern States Power
Pacific Gas & Electric

Portland General Electric
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South Carolina Electric & Gas
Southern California Edison
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International Utilities

Belgian Utilities
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Korea Electric Power
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Spanish Utilities
Swedish State Power Board
Taiwan Power

OG-92-13

February 27, 1992

Ms. Diane B. Dandois, Chief
License Fee and Debt Collection Branch
Office of the Controller
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Subject: Westinghouse Owners Group
Request for Exemption from Full Cost Recovery of
Westinghouse Owners Group Topical Report Review Costs

Dear Ms. Dandois:

Pursuant to 10CFR170.11(b), Exemptions, the Westinghouse Owners Group (WOG) requests an exemption from the requirements of 10CFR170.12(f), Special Project Fees, as it relates to the full cost recovery of the review of Topical Reports.

The full cost recovery of Topical Report review costs was imposed on the premise that the applicant would derive the full benefit of an approved Topical Report. In addition, both the Nuclear Regulatory Commission and the public benefit from the approved Westinghouse Owners Group Topical Reports through the elimination of repetitive reviews of the same material for each member of the Westinghouse Owners Group leading to a more efficient and less costly regulatory process.

In accordance with its charter, the Westinghouse Owners Group is a vehicle for cost-sharing in the resolution of generic regulatory issues. Thus, efforts undertaken by the WOG receive extensive scrutiny to ensure each task is cost-beneficial for each of the participating utilities. In order to assess this benefit, it is necessary that each utility have a reasonable estimate of the ultimate cost of a task prior to authorizing implementation. The uncapped review fee costs thus makes this difficult, if not impossible, to accurately assess the final cost of the effort and may greatly reduce the potential efforts of the WOG in resolving generic safety issues.

For the last decade, the WOG and the NRC have successfully worked together to resolve numerous generic issues in such a manner as to minimize the burden on the limited resources of both the NRC staff and the Westinghouse Owners Group member utilities and thus has been beneficial to the public. The NRC historically had recognized the benefits of generic Topical Reports and had encouraged their submittal by providing a fixed fee ceiling for their review.

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In October 1989, Mr. James Taylor, then the acting EDO, proposed to the Commissioners that the agency return to providing a fixed fee ceiling for the review of Topical Reports. The following arguments were made to the Commissioners in SECY-89-314:

"Since the Commission decision to remove the fee ceiling ... on NRC review of topical reports, the number of topical reports submitted for review has significantly decreased.

"This is counter productive to the agency because, in many cases, significant benefits are gained in terms of 1) the resolution of safety significant problems, and 2) staff time saved by conducting a generic review of a topical item...

"The surfacing of safety significant items stemming from the review of topical reports and the subsequent resource savings to the NRC, as well as the overall high level of technical competence available from industry, justifies NRC encouragement of industry submittal of these reports.

"The current system of charging an open-ended fee for NRC review of these reports has an inhibiting effect on the industry. Overall, it can be argued that the benefits to regulatory effects through submittal of topical reports offsets some of the costs for these reviews".

10CFR170.11(b) allows the Commission to grant exemptions from the requirements of this part as it determines are in the public interest. For the reasons stated above, the Westinghouse Owners Group believes it is in the interest of the public, industry, and the NRC to grant the Westinghouse Owners Group an exemption from the requirements of 10CFR170.12(f) and the full cost recovery of Topical Reports review costs and to return to providing a fixed fee ceiling for the review of Topical Reports submitted by the Westinghouse Owners Group.

Should you have any questions concerning this request, please contact me at (603) 474-9521 x3347, or K.J. Voytell, Project Manager, Westinghouse Owners Group at (412) 374-6207.

Very truly yours,

Lawrence A. Walsh

Lawrence A. Walsh, Chairman
Westinghouse Owners Group

LAW/dc

cc: Steering Committee
C.K. McCoy, Georgia Power
J.A. Bailey, Wolf Creek
Westinghouse Owners Group Primary Representatives
N.J. Liparulo, W
K.J. Voytell, W