

**PR 170 and 171
(75FR11375)**

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April 9, 2010

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Secretary
U. S. Nuclear Regulatory Commission
ATTN: Rulemakings and Adjudications Staff
Washington, D.C. 20555-0001

Subject: Docket ID NRC-2009-0333; Comments on Proposed Rule, 10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY 2010

Reference: Letter from A. R. Pietrangelo (Nuclear Energy Institute) to A. L. Vietti-Cook (U. S. NRC), "Docket ID NRC-2009-0333; 10 CFR Parts 170 and 171, Revision of Fee Schedules; Fee Recovery for FY 2010; Proposed Rule (75 Fed. Reg. 11,376)," dated April 8, 2010

The U. S. Nuclear Regulatory Commission (NRC) recently issued a Proposed Rule, "10 CFR Parts 170 and 171 Revision of Fee Schedules; Fee Recovery for FY 2010," in the Federal Register on March 10, 2010 (75 FR 11376). The proposed rule describes the Fiscal Year (FY) 2010 NRC fee structure for licensing, inspection, and annual fees charged to its applicants and licensees. The Federal Register notice requested comments to the proposed rule be submitted in writing by April 9, 2010. Exelon Generation Company, LLC (EGC) has reviewed the proposed 10 CFR Parts 170 and 171 rule and is providing the following comments related to total fee recovery increases, annual base fee increases, timely budget estimates, and Agreement State activities.

The proposed NRC total fee recovery for FY 2010 of \$912.2 million reflects a 4.8% increase over the FY 2009 total fee recovery. Over the past six years, the NRC total fee recovery has increased approximately 68% since FY 2005 when the total fee recovery was \$540.7 million. Exelon considers the 4.8% increase in FY 2010 to be a more reasonable budget increase than in previous years; and sees this change as a stabilization of the budget following NRC staffing increases in recent years.

With regard to the annual fee per power reactor, EGC requests, to the extent appropriate, that fees be recovered through hourly fee charges as opposed to annual fees. This practice more effectively aligns the fee structure and licensee costs to the amount of inspection and oversight activities provided by the NRC.

Additionally, EGC requests that the NRC review and amend the invoicing and billing practices related to hourly fees. The present practice of billing inspection costs after final issuance of the inspection report often results in significant gaps between inspection activities and invoicing. This practice results in licensee budget and financial management challenges. EGC

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recommends that inspection costs be billed as they are incurred to ensure licensees' ability to accurately meet financial reporting requirements.

In the referenced letter, the Nuclear Energy Institute (NEI) has requested that the NRC coordinate with the Agreement States to identify ways to augment licensees' fiscal responsibility for the cost of the NRC's regulatory programs. These regulatory programs, which the licensees are 100% responsible, benefit both the licensees and the Agreement States. EGC supports review of this process as additional States become Agreement States.

If you have any questions concerning this letter, please contact me at (630) 657-2811.

Respectfully,

A handwritten signature in black ink that reads "Darin M. Benyak". The signature is written in a cursive style and ends with a horizontal line.

Darin M. Benyak
Director – Licensing and Regulatory Affairs
Exelon Generation Company, LLC