



CHIEF FINANCIAL OFFICER

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 18, 2014

Tyson R. Smith, Esquire
Winston & Strawn LLP
101 California Street
San Francisco, CA 94111

Dear Mr. Smith:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated February 21, 2014¹, which disputes a portion of the fees the NRC assessed for the Honeywell International Inc., Metropolis Works uranium conversion facility.² Specifically, your letter disputes \$60,588.00 in licensing fees. The NRC submitted these fees to Honeywell in invoice LFB 14-1691, dated January 24, 2014.

As a basis for the dispute, Honeywell incorporates by reference the letters to the NRC dated February 22, 2013, May 17, 2013, August 13, 2013, and November 21, 2013, regarding LFB 13-2061, LFB 13-3439, LFB 13-4946, and LFB 14-0391, respectively. Honeywell asserts that footnote 2 of 10 CFR 170.31 precludes the NRC from collecting fees for the inspection and licensing activities associated with evaluating compliance with the Honeywell confirmatory order dated October 15, 2012.³ The confirmatory order specifically addresses Honeywell's voluntary commitments originally defined in a confirmatory action letter (CAL) dated July 13, 2012.⁴ The pertinent part of footnote 2 of 10 CFR 170.31 states, "Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders." Honeywell asserts that the mutually agreed upon confirmatory order imposes a civil sanction or penalty upon it.

We disagree with Honeywell's assessment. The disputed fees contained in invoice LFB 14-1691 resulted from the NRC staff's review of technical documents that Honeywell submitted in accordance with the confirmatory order. As stated in our previous letters, the exclusion in 10 CFR 170.31 footnote 2 does not apply to this situation because Honeywell consented to the confirmatory order, which was issued with Honeywell's agreement in lieu of a notice of violation and potential civil penalty. Because the confirmatory order does not impose a civil sanction or penalty, the NRC properly assessed Honeywell the fees listed in the January 24, 2014, invoice.

As a separate matter, while researching Honeywell's fee dispute, the NRC staff became aware of an improper billing associated with the preparation of the October 15, 2012, confirmatory

¹ See *Agencywide Documents Access and Management System (ADAMS) ML14073A125 (Winston & Strawn Fee Dispute Invoice LFB 14-1691)*

² See *Docket Number 40-3392*

³ See *Confirmatory Order; In the Matter of Honeywell International Inc.; Metropolis, Illinois, 77 Fed. Reg. 64,831 (Oct. 23, 2012)*

⁴ See *ADAMS Accession No. ML12195A212 (Confirmatory Action Letter-Honeywell Facility Commitments to Resolve Safety Concerns Before Restarting NRC Licensed Operations)*

T. R. Smith

- 2 -

order⁵. The NRC has determined that approximately 370 hours were charged to Honeywell for the preparation of the confirmatory order. These hours were billed at the FY 2012 hourly rate of \$274 per hour, for an approximate sum of \$100,000.00. As a result, the NRC will issue a refund to Honeywell for the amount collected.

If you have any technical questions regarding this matter, please contact Ms. Tilda Liu, Office of Nuclear Materials Safety and Safeguards, at (404) 997-4730. Please contact Mr. Alexander S. Balkin, of my staff, at (301) 415-5835 for any fee-related questions.

Sincerely,

/RA/

Maureen E. Wylie
Chief Financial Officer

⁵ *Id.* Footnote 3

order⁶. The NRC has determined that approximately 370 hours were charged to Honeywell for the preparation of the confirmatory order. These hours were billed at the FY 2012 hourly rate of \$274 per hour, for an approximate sum of \$100,000.00. As a result, the NRC will issue a refund to Honeywell for the amount collected.

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Sincerely,

/RA/

Maureen E. Wylie
Chief Financial Officer

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⁶ *Id.* Footnote 3