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50-249

August 7, 1978

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Mr. William O. Miller, Chief
License Fee Management Branch
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Subject: Additional Licensing Fees for Fuel Pool
Modification for Dresden Station Units
2 and 3 and Zion Station Units 1 and 2
NRC Docket Nos. 50-237/249 and 50-295/304

References (a): May 12, 1978 letter from W. O. Miller to
Cordell Reed requesting additional licensing
fee for Zion Station Fuel Pool Modification
Amendment

(b): June 1, 1978 letter from W. O. Miller to
Cordell Reed requesting additional licensing
fee for Dresden Station Fuel Pool
Modification Amendment

Dear Mr. Miller:

Per References (a) and (b), Commonwealth Edison Company
was informed that the spent fuel pool modification applications
for the Dresden and Zion Stations were actions involving
significant hazards consideration. As such, these licensing
actions were determined by DOR to be in licensing fee Classes
IV and I rather than Classes III and I as determined by
Commonwealth Edison Company, and that an additional remittance
of \$8,300 for each of the two applications was required.

Commonwealth Edison Company strongly disagrees with the
DOR determination. In evaluating the licensing fee classification
for the submittals, Commonwealth Edison carefully examined Classes
III and IV for their applicability. The crux of this examination
is outlined below.

Class III contains amendments that:

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"...involve a single environmental, safety, or other issue, have acceptability for the issue clearly identified by an NRC position, or are deemed not to involve a significant hazards consideration."

The proposed spent fuel modifications do involve a single environmental and safety issue with a clearly defined NRC position. From an environmental viewpoint the NRC Draft Generic Environmental Impact Statement (NUREG-0404, Vol. 1, Executive Summary Text, dated March 1978) states in Section 8.0 Findings that:

"The storage of spent fuel in water pools is a well established technology, and under the static conditions of storage represents a low environmental impact and low potential risk to the health and safety of the public..."

Further on in the same section the text states:

"Licensing reviews of these applications have shown that the modifications are technically and economically feasible and justified. Licensing of these actions is adequately covered by existing regulations and established regulatory practices. This statement supports the finding that increasing the capacities of individual spent fuel storage pools is environmentally acceptable..."

and also that:

"The storage of LWR spent fuels in water pools has an insignificant impact on the environment, whether at AR or AFR site. Primarily this is because of the physical form of the material, sintered ceramic oxide fuel pellets hermetically sealed in zircaloy cladding tubes... The technology of water pool storage is well developed; radioactivity levels are routinely maintained at about 5×10^{-4} $\mu\text{Ci}/\text{m}^3$. Maintenance of this purity requires continuous treatment (filtration and ion exchange) of the pool water. Radioactive waste that is generated is readily confined and represents little potential hazard to the health and safety of the public."

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In addition, the NRC has promulgated a document for guidance on spent fuel pool modifications entitled "Review and Acceptance of Spent Fuel Storage and Handling Applications." This document also provides a compilation of the pertinent portions of the various Regulatory Guides, the Standard Review Plan (NUREG-75/087), and various industry standards that are needed in addressing spent fuel pool modifications. Thus, the acceptability and uniqueness (singularity) of this issue has been clearly defined by an NRC position.

In addressing the final part of the Class III definition the licensing fee schedule provided little or no guidance on determining what constitutes a significant hazards consideration. However, a definition or understanding of what constitutes a significant hazards consideration can be deduced from a review of the requirements for a Class IV amendment.

Class IV contains amendments that:

"...involve a complex issue or more than one environmental, safety, or other issue, or several changes to the Class III type incorporated into the proposed amendment, or involve a significant hazards consideration, or require an extensive environmental impact appraisal, or result from dismantling or license termination orders."

As previously indicated, the proposed Commonwealth Edison spent fuel pool modification applications do not involve a complex issue, nor more than one environmental, safety, or other issue, nor several changes of the Class III type, nor do they require extensive environmental impact appraisals. Coupling these considerations together with dismantling or license termination orders and equating them to a significant hazards consideration enabled Commonwealth Edison to deduce that the proposed spent fuel pool modifications for the Dresden and Zion Stations do not constitute a significant hazards consideration and, therefore, belong in the Class III licensing fee category.

Moreover, discussions with the NRC Staff have indicated other internal Staff criteria for making the earlier stated DOR determination. It is Commonwealth Edison's understanding that the NRC Staff routinely utilizes a "significant hazards consideration" as a "catch-all" category for determining the basis for prenoticing proposed licensee amendment changes, especially for those changes that the NRC Staff consider publicly controversial or of high public or political interest.

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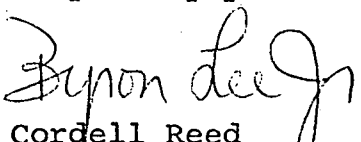
Commonwealth Edison Company is not opposed to the NRC Staff prenoticing proposed licensee amendment changes provided sufficient clearly defined bases exist for prenoticing. These bases should be defined independently of the licensing fee categories. In addition, with the imposition of the licensing fee schedule on all licensees, DOR and the License Fee Management Branch should jointly review and clearly define those terms used in the licensing fee schedule that are quite subjective in nature, i.e. significant, complex or extensive.

Finally, although the difference in licensing fees between Class III and IV amendments is not excessive for a single amendment (\$8,300), over the course of time this difference can mount substantially and becomes multiplicative for utilities with multiple stations. In addition, this difference can be very significant when amendment applications generic to the industry are considered, e.g. the currently proposed spent fuel pool modifications to accommodate the government's policy of no reprocessing.

Therefore, in the interests of Commonwealth Edison Company customers, as well as those of the rest of the nation, Commonwealth Edison requests that DOR and the License Fee Management Branch carefully review the discussions contained herein and reclassify as a Class III amendment the Dresden and Zion Station spent fuel pool modification applications. Commonwealth Edison also requests that DOR and the License Fee Management Branch more clearly define the aforementioned subjective licensing fee schedule terms to alleviate future problems in categorizing amendment fees.

Please address any questions that you may have to this office.

Very truly yours,

for 
Cordell Reed

Assistant Vice-President