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

AUG 22 1980

DOCKET NO. 50-409

Dairyland Power Cooperative
Attn: Mr. Frank Linder
General Manager
2615 East Avenue South
LaCrosse, Wisconsin 54601

Dear Mr. Linder:

Reference: LAC-7001

This is in response to your letter dated July 1, 1980 concerning the inspection fees assessed pursuant to 10 CFR 170 and covered by Invoice 1442M for License DPR-45. Unfortunately, we did not receive the letter and requested a copy from your office on August 12, 1980.

As you point out in your letter, the amount shown for one of the itemized entries (safety) is in error and should have read \$75,700 rather than \$75,000. We have enclosed a corrected copy of Invoice 1442M.

The following is in response to the specific questions raised in your letter concerning the practice of fee assessment:

The U.S. Nuclear Regulatory Commission's (the Commission) fee program is based on the Independent Offices Appropriation Act of 1952 (IOAA) under which the Commission is authorized and encouraged to recover costs attributable to specific services provided to identifiable recipients. Under the IOAA, the Commission is authorized to recover the full cost of any expenses incurred in assisting an applicant or licensee to comply with statutory or regulatory requirements. Because routine inspections are considered as assisting an applicant or licensee in complying with statutory and regulatory requirements, inspection fees are assessed for routine inspections.

We have not shown an itemized breakdown of La Crosse's inspections conducted during the year, e.g., names of the inspectors performing the service, hours spent by the inspectors at the site, etc., since the fees assessed under Invoice 1442M are those authorized by Part 170 of the Commission's regulations. More specifically, 10 CFR 170.23 provides that a power reactor licensee will be assessed a fee of \$75,700 once per year for all health and safety inspections conducted at the facility during the year. Similarly, 10 CFR 170.24 provides that a power reactor licensee will be assessed a fee of \$11,800 once per year for all safeguards inspections conducted at the facility during the year. The period covered by

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the fees assessed under Invoice 1442M is March 23, 1979 to March 22, 1980.

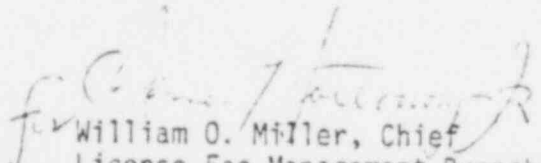
The safety and safeguards inspection fees assessed for the La Crosse reactor are flat fees established by regulation. They are based on the Commission's "average cost" to conduct routine health and safety and safeguards inspections for those power reactors holding operating licenses with the Commission. The routine inspection fee takes into account the average manpower expended to conduct the on-site inspections throughout the year, the inspector's time to review the license and supporting data in order to prepare for the inspections and documentation time required after the site visits. As you can appreciate, the "average cost" to conduct the inspections may either exceed or be less than the "actual costs" expended for the inspections of any one of the Commission's operating power reactors. In developing the fee schedule, we examined several alternative methods in addition to average costs. For example, we examined the possibility of assessing fees based on actual manpower expended to conduct the individual inspections. This approach has not been abandoned and will receive further consideration in future revisions of the fee schedule.

We are enclosing a copy of our Notice of Proposed Rulemaking dated May 2, 1977 which explains more fully how the fees were developed. Also, we are enclosing a copy of NUREG-0268 which shows the manpower and costs which went into the various categories of fees.

The present license fee schedule was challenged in the United States Court of Appeals, Fifth Circuit, and after examination of the facts, the Court concluded that the schedule should be upheld. We have enclosed a copy of the Court's opinion issued on August 24, 1979.

If we can be of further service, please do not hesitate to contact this office.

Sincerely,


William O. Miller, Chief
License Fee Management Branch
Office of Administration

Enclosures:

1. Invoice 1442M Corrected
2. 5/2/77 Notice of Proposed Rulemaking
3. NUREG-0268
4. 8/24/79 Court Decision