



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

*Duplicate copy  
for microfiche*

October 15, 1980

Sutton Keany, Esquire  
Winthrop, Stimson, Putnam & Roberts  
40 Wall Street  
New York, NY 10005

IN RESPONSE REFER  
TO FOIA-80-485

Dear Mr. Keany

This is in response to your letter dated September 23, 1980, in which you requested, pursuant to the Freedom of Information Act, all records pertaining to three categories of information with regard to fees for withdrawn applications. In subsequent telephone conversations between you and Linda Robinson concerning your request, you stated, among other things, that your request does not cover SECY-80-364 since you have already obtained a copy of that record.

Searches by those offices in which records responsive to your request would likely be maintained have resulted in identification of records pertaining only to categories (a) and (b) of your request. We have enclosed some of these records, as listed on the enclosed appendix.

Two additional records, identified as (1) SECY-80-364A, and (2) Response Sheet to Samuel Chilk from Chairman Ahearne, are being withheld pursuant to Exemption (b)(5) of the Freedom of Information Act, 5 U.S.C. 552 (b)(5), and 10 CFR 9.5 (a)(5) of the Commission's regulations. These records constitute legal advice (a legal work product and information covered by the attorney-client privilege) and other internal deliberative material, and their disclosure would adversely affect the ability of the Commission to engage in candid deliberations.

Pursuant to 10 CFR 9.15 of the Commission's regulations, it has been determined that the information withheld is exempt from production or disclosure and that its production or disclosure is contrary to the public interest. The person responsible for this denial is Mr. Samuel J. Chilk, Secretary of the Commission.

This denial may be appealed to the Commission within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from the Initial FOIA Decision."

Sincerely,

J. M. Felton, Director  
Division of Rules and Records  
Office of Administration

Enclosure: As stated

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APPENDIX

a)

1. Unofficial transcript 9/4/80 of affirmation of SECY-80-364 at Commission Affirmation Session 80-39
2. Memo 9/4/80 John C. Hoyle re: affirmation, with Mail Control Form, attached to SECY 80-364
3. Memo 7/7/80 W. O. Miller to Robert Fonner, ELD (Comments on Draft Staff Paper)
4. Memo 6/20/80 W. O. Miller to Robert Fonner (Background info on New England Power)
5. Memo 6/2/80 W. O. Miller to Steve Eilperin, OGC - Status of 4 cases formally withdrawn
6. Memo 5/21/80 W. O. Miller to Robert Fonner, ELD (listing of withdrawn and announced discontinuance of nuclear plants)
7. NRC fee guidelines approved by the Commission and Court of Appeals in Mississippi Power and Light vs. NRC, 601 F.2d 223 (1979) cert. denied 444 U.S. 1102 (1980).

b)

1. Letter 4/22/80 Public Service Electric to W. O. Miller (Declines payment of Invoice 362-80)
2. Invoice 514-80 dated 3/31/80 NRC to New England Power billing for withdrawn CP
3. Letter 3/24/80 W. O. Miller to New England Power (Notifies NEP of fees due)
4. Memo 3/24/80 W. O. Miller to W. E. Manion (Notifies Controller to bill NEP.)
5. Memo 3/24/80 C. J. Holloway to Files with 3 enclosures (Supporting documentation for billing NEP.)
6. Invoice 362-80 dated 1/23/80 NRC to Public Service Electric billing for withdrawn CP
7. Letter 1/8/80 W. O. Miller to Public Service (Notifies Public Service of fees due)
8. Memo 1/8/80 W. O. Miller to W. E. Manion (Notifies Controller to bill Public Service)
9. Memo 1/8/80 C. J. Holloway to Files with 3 enclosures (Supporting documentation for billing Public Service)

c) (no records)