

MAY 7 1982

Docket Nos. 450
and 451



Dale G. Stoodley
General Counsel
Delmarva Power & Light Co.
800 King Street
P.O. Box 231
Wilmington, Del. 19899

Dear Mr. Stoodley:

This letter is being written to you with regard to the April 1, 1982 invoice sent to Delmarva Power & Light Co. for \$963,037 for the costs of the NRC's review of the construction permit applications for Summit Units 1 & 2. We have received your letter of April 16, declining payment of the assessed costs in light of the current legal status of this matter. To assure that the NRC did not bill the Company erroneously for its review of Summit Units 1 & 2, we wish to clarify the NRC's position on fees for review of withdrawn construction permit applications, with particular reference to the two Summit units, and to invite the Company to submit any documentation it may have with a bearing on this matter.

Part 170 of the Commission's regulations, effective March 23, 1978, provides for collection of the costs of review when that review is complete, whether by (i) issuance of the permit, (ii) denial, withdrawal or suspension of the application, or (iii) postponement of action on the application. These regulations by their terms apply to all applicants for utilization facility construction permits and operating licenses. 10 CFR 170.2. Delmarva Power & Light Co. did not formally attempt to withdraw its construction permit applications until December 5, 1980, two years after the effective date of Part 170. Thus Delmarva Power & Light Co. was still formally an applicant for utilization facility construction permits when the Part 170 rules became effective, and accordingly the NRC billed Delmarva Power & Light Co. for the costs of the NRC's review of those applications.

It is the NRC's position, however, that if a utility presents sufficient documentation to demonstrate that it notified the NRC prior to March 23, 1978, of its decision to withdraw its application and terminate the proceeding and if all work by the NRC on the application therefore ceased prior to March 23, 1978, then the NRC will not bill the utility for its review of the withdrawn application.

OFFICE	B205130423	B20507				
SURNAME	PDR	ADDCK	05000450			
DATE	A	PDR				

MAY 7 1982

The only documentation we now have indicating that Delmarva Power may have attempted to suspend or terminate its construction permit review prior to March 23, 1978, is a letter, dated October 30, 1975, from Donald P. Irwin to the Atomic Safety and Licensing Appeal Board. The letter requested that the Appeal Board stay its review of the Licensing Board's Partial Initial Decision and the Supplement thereto. It did not, however, state that the applications were being withdrawn or suspended, nor did it request a cessation of all NRC work on the applications. If Delmarva Power & Light Co. should present further documentation sufficient to show that the applications were effectively withdrawn prior to March 23, 1978, and NRC records confirm that work on the review ceased by that date, the invoice which the Company received from NRC will be rescinded.

Sincerely,

Original Signed by
Wm. C. Miller

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

cc: Gerald Charnoff, Esq.
Shaw, Pittman, Potts & Trowbridge
1800 M Street, N.W.
Washington, D.C. 20036

DISTRIBUTION:

Peter G. Crane, OGC
E. Leo Slaggie, OGC
Richard P. Levi, OGC
R. Fonner, OELD
P. Norry, ADM
H. Berkow, NRR
PDR
LPDR
Docket File ✓
W. O. Miller, LFMB
C. J. Holloway, LFMB
R. M. Diggs, LFMB
K. L. Köhler, LFMB
LFMB Manpower File
LFMB R/F (2)

*Letter originated by P. Crane, OGC, and R. Fonner, OELD.

OFFICE	LFMB:ADM	OELD				
SURNAME	*WOMiller:bs	RFonner:				
DATE	5/7/82	5/7/82				