



Westinghouse
Electric Corporation

Water Reactor
Divisions

Nuclear Technology Division
Box 355
Pittsburgh Pennsylvania 15230

(412) 373-4868

August 6, 1982

Mr. J. M. Rodriguez
Office of the Controller
Division of Accounting
U.S. Nuclear Regulatory Commission
Maryland National Bank Building
7735 Old Georgetown Road
Bethesda, Maryland

RECEIVED BY LFMB	
Date..	8/20/82
Log..	pm
By..	lmb
Orig. To.....	
Action Compl.	

Dear Mr. Rodriguez:

RE: NRC fees for review of Revision 1, WCAP 9220/9221

Westinghouse Electric Corporation (Westinghouse) asserts that the \$10,725. billed on the attached invoice is inequitable and excessive for the reasons explained more fully below. Therefore, pursuant to 10 CFR §170.11(b)(1), Westinghouse hereby applies for exemption from the fee requirements of 10 CFR Part 170. By citing the exemption portion of Part 170, Westinghouse does not admit, directly or by implication, that Part 170 is applicable to this matter.

WCAP 9220 and 9221 were published by Westinghouse in 1978. Subsequently, the NRC reviewed and accepted their validity as an ECCS evaluation model. Westinghouse paid for this initial NRC review. Westinghouse saw no reason to revise them following their acceptance.

Subsequently, the Regulatory Staff published "revised staff requirements for cladding swell and rupture models" in NUREG 0630. Westinghouse attempted to demonstrate to the Regulatory Staff that the models used in WCAP 9220 and 9221 continued to be valid. (In fact, Westinghouse still asserts their continued validity.)

Westinghouse saw the futility of arguing this point further, revised its models to satisfy the Staff's revisions, and submitted them by letter Number NS-TMA-2448 on May 15, 1981. Westinghouse asserts that fairness and equity¹ demand that the NRC recognize its role in how this "revision" came about, and exempt the review from its otherwise applicable fee collecting regime.

MO08

¹Westinghouse notes that 31 USC § 483a provides in part that "...the head of each Federal agency is authorized to prescribe...such fee, charge, or price, if any, as he shall determine...to be fair and equitable..." (Emphasis added)

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Further, Westinghouse also notes that the revision was not submitted for review and approval as a topical report, as the invoice reads. Westinghouse did submit a letter and enclosure describing the changed Westinghouse model. Westinghouse published Revision 1 to WCAP 9220/9221 only after the NRC approval of the models and at the directive of J. R. Miller in a December 1, 1981 letter to E. P. Rahe. No provision exists in Part 170 for review of a letter, and the revision, or "topical report", came only after the review and approval of the models.

Further, most all of the material in the letter submittal had been reviewed previously in WCAP 9220/9221, and Westinghouse paid for the review. Westinghouse brought this to the NRC's attention in the May 15, 1981, letter. It would be inequitable and unfair to be charged a second time for the staff review of the models and supporting data when most of the same information had already been reviewed in WCAP 9220/9221, and charged for then.

Further, the items submitted with the May 15, 1981 letter constitute perhaps five percent of the total ECCS evaluation model. A fee of over \$10,000 for such a relatively small change is excessive when compared to the regulatory limit of \$20,000.

For the foregoing reasons, Westinghouse submits that the NRC should exempt its review from the fee schedule set by the Commission.

Very truly yours,



E. P. Rahe, Manager
Nuclear Safety Department

lmj

Attachment

cc: F. X. Davis
R. A. Wiesemann
B. A. McIntyre

LFMB note 8/25/82:

No fee pd. for WCAP-9220/9221.

*\$20,000 paid for WCAP-9500-17X17(OFA)
to be billed 8/24/81.*

INVOICE FOR SERVICES AND MATERIALS

BILL NUMBER

A0188

MAKE CHECKS PAYABLE TO THE U.S. NUCLEAR REGULATORY COMMISSION AND MAIL TO:

U.S. NUCLEAR REGULATORY COMMISSION
OFFICE OF THE CONTROLLER
DIVISION OF ACCOUNTING
WASHINGTON, DC 20555

DATE

4/27/82

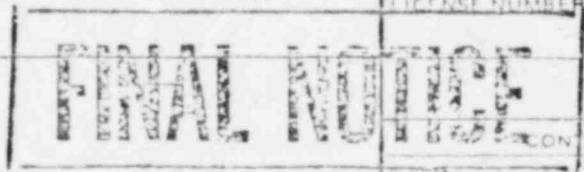
DUE DATE:

5/27/82

JUL 07 1982

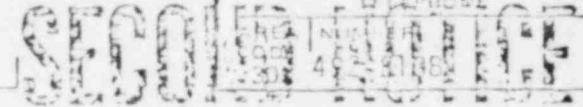
LICENSE NUMBER

TO: Westinghouse Electric Corporation
Attn: Mr. E. P. Rahe, Manager
Nuclear Safety Department
P.O. Box 350
Pittsburgh, PA 15203



JUN 4 1982

J. M. Rodriguez



DESCRIPTION OF SERVICES AND MATERIALS

AMOUNT

ONRR review of Topical Report WCAP-9220/9221 - Revision 1,
Westinghouse ECCS Evaluation Model - 1981 version, as described
in the May 15, 1981 WEC proposal letter No. NS-TMA-2448;
approved by ONRR's letter dated December 1, 1981

Fee Code: AA903-SP (Special Projects)

Amount: 275 staff hrs @ \$39/hr (Per 170.21, Category F
Special Projects and Reviews)

\$10,725.00

TERMS: Late payment charge will be assessed after payment due date
at the rate of 1.10 % of the overdue payment for each
30-day period or portion thereof that the payment is overdue.

NOTE: The NRC debt collection procedures are found in 10 CFR 15.
If there are any questions about the existence or amount of
the debt, refer to these procedures or contact the individual
given above.

AMOUNT DUE

\$10,725.00