

OCT 20 1982

Westinghouse Electric Corporation
ATTN: Mr. E. P. Rahe, Manager
Nuclear Safety Department
Box 355
Pittsburgh, Pennsylvania 15230

Gentlemen:

Your letter dated August 6, 1982 to Mrs. J. M. Rodriguez has been referred to us for response. The letter provided your reasons for feeling that the \$10,725 billed on Invoice No. A-0188 is inequitable and excessive for the review and approval of your May 15, 1981 letter No. NMS-TMA-2448 relating to WCAP-9220/9221. You also requested exemption from the requirements of 10 CFR 170 for this fee.

In response to your letter, we provide the following information:

1. You stated that Westinghouse Electric Corporation (WEC) paid for the initial review of WCAP-9220/9221 (approved by NRC on August 29, 1978), and that most of the material in the May 15, 1981 letter had been reviewed previously in WCAP-9220/9221 so it would not be fair or equitable to charge the second time for material already reviewed and paid for at that time. According to our records, no fees were assessed for the initial review of WCAP-9220/9221 (February 1978) which was approved on August 29, 1978, because the report was filed for review on March 3, 1978, which was prior to the revision to Part 170 that added fees for topicals or revisions to accepted topicals filed on or after March 23, 1978. The invoice for \$10,725 covers the review period of June 10, 1981 through December 1, 1981 for the review of the May 15, 1981 filing. Therefore, the time period covered did not include the previously reviewed material that was formally approved August 29, 1978, nor the subsequent data that was informally submitted and approved between August 1978 and May 15, 1981.
2. It was also WEC's contentions that:
 - a. There was no reason to revise WCAP-9220/9221 as requested by NRC after NRC's review and acceptance of their validity as an ECCS evaluation model,
 - b. The May 15, 1981 filing was not submitted for review and approval,
 - c. There is no provision in 10 CFR 170 for review of a letter, and

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- d. The May 15 letter constitutes approximately 5% of the total ECCS evaluation model. Therefore, a fee of \$10,725 for such a small change is excessive when compared to the \$20,000 regulatory limit.

Our responses to the items under 2 above are as follows:

- a. As a result of the USNRC's role of licensing and overseeing the safe operation of nuclear facilities, data is often required and requested to resolve a USNRC concern in a given area of a report or Part 50 application. When such data is requested for this purpose and requires review and approval, review of such data (whether by letter, report, and/or revision to a report) is subject to the fee requirements of 10 CFR 170. Although your May 15 filing included data submitted previously, it also included data to satisfy NRC concerns and mandated changes addressed in NUREG-0630.
- b. In order for WEC reports and other documents to be independently reviewed for subsequent reference by companies supplied with WEC systems/fuels, NRC concerns with respect to a system or the performance of that system must be satisfactorily addressed by the supplier of the system/fuel and the data reviewed and formally approved by NRC such as was done for your May 15, 1981 submittal. Further, we note that page 2 of your May 15, 1981 letter did request formal approval of the data provided by this letter.
- c. Under 170.3(s), Special Projects is defined as "...those projects submitted to the Commission for review and for which specific fees are not prescribed in this chapter. Examples of special projects include, but are not limited to, topical reports, early site reviews,...." Therefore, provision exists to charge for the May 15 letter that was approved December 1, 1981.
- d. As you are probably aware, the Office of Nuclear Reactor Regulation's professional review staff is required to keep a documented record of the time expended on each request that is received for review. This time is reported weekly by use of the Regulatory Activities Manpower System (RAMS). This record is verified and is currently being maintained for an indefinite period of time. The staff hours for the review of the May 15, 1981 submittal have been rechecked and confirmed to be correct as 275 hours for the period of June 10, 1981 through December 1, 1981. As previously stated, it did not include the earlier formally or informally reviewed and accepted reports and letters.

In consideration of the above, your request for exemption from the fee requirements of 10 CFR 170 for the \$10,725 billed by Invoice No. A-0188 dated April 27, 1982, is hereby denied. It is requested that WEC remit the \$10,725 promptly to the Commission plus any interest that may be due under 10 CFR Part 15.

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Mr. E. P. Rahe

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OCT 26 1982

We hope that this letter has been responsive to all of your concerns. If we can be of further assistance, we may be reached on (301) 492-7225.

Sincerely,

Original Signed by

Wm. O. Miller

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

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LFMB Regulatory Records (016)

LFMB Special Projects Actual M/P

LFMB WEC Topical

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DATE	10/20/82	10/21/82	10/21/82	10/21/82	10/20/82