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INDIANA-KENTUCKY ELECTRIC CORPORATION

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USNRC

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PROPOSED RULE PR 170.2171

Secretary of the U.S. Nuclear  
Regulatory Commission  
Washington, D.C. 20555

Attention: Docketing and Service Branch

The U.S. Nuclear Regulatory Commission (NRC) is required by the Omnibus Budget Reconciliation Act of 1990 to recover approximately 100 percent of its budget authority through the assessment of user fees. However, neither the current fee structure nor the proposed new fee structure accurately depicts the costs of maintaining these programs for licensees who own one or a limited number of sources containing licensed by-product materials and who do not meet the small entity criteria.

The present fee structure does not differentiate between licensees who possess a single source (i.e., a surface moisture/density gauge) and licensees who possess large numbers of sources listed under a single material license. Since flat annual fees and inspection fees are assessed regardless of the actual number of sources that are possessed under a single license, licensees who possess only one or a limited number of sources are supporting a disproportionate share of NRC's costs.

A disproportionate distribution of NRC's costs can also be seen in the NRC's assessment of inspection fees. Licensees who hold a specific by-product materials license as covered under 10 CFR 170.31 Category 3P will be charged \$1,500 for an inspection. 10 CFR 170.20 states that fees are calculated based on a professional staff hour rate of \$133 per hour which includes salary and benefits, administrative support and travel. Based on this rate, it appears that the agency estimates that each inspection will require 11.3 hours to complete. During a recent inspection of this licensee, an NRC inspector spent two hours on site performing a thorough inspection of a single licensed surface moisture/density gauge, reviewing records and completing the inspection form. According to the NRC staff-hour rate of \$133 per hour, the cost of this inspection should have been \$266, not the \$1,500 proposed under 10 CFR 170.31, Category 3P.

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It is interesting to note that for licensees who operate a single source, annual fees and inspection fees can exceed the purchase price of the source within a relatively short time. In two years, for example, payments of the annual fee and surcharge proposed in 10 CFR 171.16 (4) (d) Category 3P as \$2,470 for a surface moisture/density gauge would exceed the gauge's purchase price which has typically been around \$4,500. Surely the NRC can administer the license for such a piece of equipment more efficiently than that being reflected in the proposed fee structure.

In order to provide for a more equitable recovery of NRC budget requirements, consideration needs to be given to fees based on a per licensed source basis rather than on a per license basis. The Ohio Valley Electric Corporation appreciates the opportunity to comment on these proposed fee structure changes and hopes that these comments will be given due consideration.

Respectfully submitted,



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Chief--Production and  
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FLS:men