

DOCKET NUMBER
PROPOSED RULE **PR 170+171**

(59 FR 24065)

DOCKETED
USMRC



NTD-NRC-94-4163

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'94 JUN 16 P 6 23

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OFFICE OF SECRETARY
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BRANCH

June 10, 1994

Mr. Samuel J. Chilk, Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555

ATTENTION: Docketing and Services Branch

Dear Mr. Chilk:

Subject: Proposed Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY1994 (59 FR 24065, May 10, 1994)

These comments are submitted by the Westinghouse Electric Corporation ("Westinghouse") in response to the United States Nuclear Regulatory Commission ("NRC") request for public comments "On the Proposed Revisions to License, Inspection and Annual Fees for FY1994."

Westinghouse supports the Commission's recent recommendation to Congress for legislative changes to reduce the regulatory cost burden on NRC licensees. We also recognize that the NRC's 1994 budget does reflect the Commission's effort in complying with the "National Performance Review," that is a more effective government; and furthermore that the Commission has reduced its overall 1994 budget by \$6 Million. However, Westinghouse believes that the Commission can make certain policy changes within the current legislative framework that would allow a more equitable approach to cost recovery. The following specific comments are provided in this light.

Comments on the Proposed Changes to Part 170

Overall, Westinghouse believes that the proposed changes to Part 170 provide a better allocation of fees for specific regulatory services provided. We support the Commission's proposed removal of overhead from rates for specific services and efforts to reduce overhead costs. We strongly support the proposed fee for information requested by and NRC support provided to Agreement State licensees. We also support imposition of the proposed change in the definition of special projects to allow cost recovery through annual charges on a specific class of licensees for activities that are in support of generic efforts or responses to generic requests generated by the Commission. In fact, we believe other generic type activities undertaken by the Commission should also be treated in this fashion. Notwithstanding these Commission improvements, more should and could be done to reduce Part 170 fees.

Westinghouse urges the Commission to institute a program of increased accountability for costs and costing rates under Part 170. This would provide assessed entities with a better understanding of such costs and ultimately would enable the Commission to better manage such costs. Although the proposed increase in the professional staff hourly rate from \$132 to \$133 appears to be reasonable, it

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must be noted that total rate increases from 1991 to 1994 represent an increase of 16% over this period. The Commission's practice of simply increasing its hourly rate without providing a cost breakdown to assessed organizations for such increase merely to balance its budget is arbitrary and unacceptable. Similarly, the Commission practice of sending invoices that detail the gross number of hours expended and the total dollar value of the fee that is due fails to provide assessed organizations information to understand the basis of the fee and, more importantly, any incentive to the Commission to better manage the expenditure of effort associated with the fee. For these reasons, Westinghouse believes, the Commission should be more accountable for its expenditures and affected organizations should be afforded an opportunity to audit and question the level of expenditures/assessments on an ongoing basis. Westinghouse is unaware of any Commission "in-house" program and/or defined effort aimed at implementing accountability, thereby improving productivity and reducing costs.

Comments on the Proposed Changes to Part 171

Westinghouse supports the Commission's proposed cost recovery for associated DOE activities. We also concur with the proposed proration provisions and the proposed modification to Part 171 to provide a waiver of annual fees for those who either filed for termination of their license prior to Oct 1, 1993, or permanently ceased licensed activities by Sept 30, 1993. However, Westinghouse also believes that there are additional efforts the Commission can take to better manage and ultimately reduce annual fees assessed to its licensees.

The Commission's justification for the 1994 increases in material licensees' fees is the reduction in the number of licensees over time. Since the inception of the "full-cost recovery" rule in 1991, the annual fee for material licensees has more than doubled. Westinghouse's total material licensee fees for 1994 increased by over \$283,000 or 18% over 1993 total annual fees. At the Westinghouse fuel fabrication facility in Columbia, SC, alone, the base annual fee has increased from \$700,000 in 1991 to over \$1,429,000 (proposed) in 1994, an increase of 104%. These levels of fee increases place an undue hardship on the profitable operation of the Columbia facility, Westinghouse's fuel fabrication activities and its ability to compete in the highly competitive global nuclear fuels market. In addition, the Commission's practice of retroactively revising annual fees causes major corporate budgeting problems, especially when large increases between the originally invoiced quarterly payments and actual annual fees are the result.

Westinghouse believes that remaining licensees should not bear the burden of the Commission's inability to reduce its overhead and level of effort required by a reduction in the number of licensees. Rather, the burden should be placed squarely on the Commission to reduce its resources to match the reduced effort required by a reduction in the size of the industry. The Commission should consider staff reductions and other management improvements to reduce budget needs based on the decline in the number of material licensees. If these measures are not adopted, a declining number of material licensees will be forced to continue paying escalating costs without any increase in services, protection or value provided by the Commission. Continually increasing costs could force additional licensees out of business, leading to even higher cost for those remaining licensees. Without these and similar actions on the part of the Commission, existing licensees will find it increasingly difficult to operate economically over the long-term. By this comment, Westinghouse is not suggesting that the Commission reduce resources necessary to assure the health and safety of the public, only that it reduce its resources commensurate with corresponding industry reductions.

Westinghouse also requests that the Commission reinstate a fee ceiling for topical report reviews. In the past the Commission correctly concluded that the regulatory process benefits significantly from a fee ceiling in terms of the expeditious resolution of significant safety problems and savings of staff

time by conducting generic reviews rather than plant-by-plant reviews. This is true whether the generic reviews involve only vendors' submittals or whether they involve work performed in conjunction with owners' groups. A fee ceiling would encourage the submittal of topical reports, thus contributing to the advance of the state-of-the-art in the nuclear industry and the resultant improvement in nuclear plant safety. The current uncapped fee structure also encourages prolonged and unreasonably detailed technical reviews by Commission contractors. A fee ceiling therefore should be reinstated to also assure responsible and cost effective topical report reviews by NRC contractors. It is essential that the entire industry, including the Commission and its contractors, rigorously apply incentives in this fashion to increase efficiency and productivity.

Deferral of Fees for Standardized Plants and Early Site Reviews

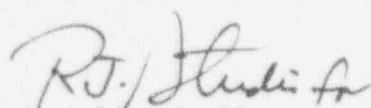
As stated in previous comments to the Commission, Westinghouse continues to urge the reestablishment of the Commission's fee deferral policy for standardized plant and early site reviews. That policy, which was carried forward in the standardization rulemaking concluded in April, 1989 (54 FR 15372, April 18, 1989), is based upon sound public policy -- the encouragement of standardized nuclear power plants for future reactors. During the standardization rulemaking, the matter of fee deferral was the subject of intense scrutiny and public comment. The Commission determination that deferral of fees on standardized design reviews would act as an incentive towards standardization was carefully thought out. That incentive still exists today. Fee deferral for review of the standardized designs is essential to encourage the development of such designs.

It is especially appropriate for the Commission to defer fees for reviews in support of design certification in light of the Commission decision to issue designs to be certified in a rule rather than by granting a license for the certified design. As stated by the Commission at the time it adopted Part 52, a rule certifying a design does not belong to the design organization. The Commission does not propose to charge other proponents of rules a fee for review and adoption of such proposed rules. Westinghouse believes it is inappropriate for the Commission to do so for the rulemaking process involving standardized designs until the rule, and hence the designs, are actually used in connection with applications for plant licenses.

In today's global competitive environment, the Commission should evaluate all costs on the basis of need and value. Hourly rates and associated fees should be better managed by requiring accountability of the Commission and its employees. Annual fees should be evaluated on the basis of value provided and the efficiency and effectiveness of the services rendered. This can clearly be done by the Commission as part of its continuing efforts toward fiscal economy and cost reduction without sacrificing its public safety function.

Westinghouse appreciates the opportunity to provide these comments. Please contact me should you wish to discuss our concerns in greater detail.

Very truly yours,



N. J. Liparulo, Manager
Nuclear Safety Regulatory and Licensing Activities

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cc: R. L. Simard/NE.