

Northeast
Utilities System

107 Selden Street, Berlin, CT 06037

Northeast Utilities Service Company
P.O. Box 270
Hartford, CT 06141-0270
(203) 665-5000

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PROPOSED RULE PR 170 & 171
(59FR24065)

OFFICE OF SECRETARY
DOCKETED July 7, 1994

Docket Nos. 50-213
50-245
50-336
50-423
B14894

Re: 10CFR170 and 171

Secretary of the U.S. Nuclear Regulatory Commission
Attention: Docketing and Service Branch
Washington, D.C. 20555

Haddam Neck Plant and
Millstone Nuclear Power Station, Unit Nos. 1, 2, and 3
Comments on Proposed Revisions to 10CFR170 and 171

Purpose

The purpose of this submittal is to provide Connecticut Yankee Atomic Power Company (CYAPCO) and Northeast Nuclear Energy Company (NNECO) comments on the proposed revisions to the fee requirements of 10CFR170 and 171.

Summary

CYAPCO and NNECO believe that the proposed revisions to the fee requirements of 10CFR170 and 10CFR171 do not satisfy the industry's need for a more equitable NRC user fee policy. First, we believe that licensees should pay only for services rendered. We should not be required to pay for services that the NRC provides to entities unrelated to the commercial nuclear power industry. Additionally, we believe that the NRC's current structure should be examined to ensure that the NRC has maximum flexibility to organize in the most efficient and cost-effective manner.

Discussion

On March 9, 1994, the Clean Air and Nuclear Regulation Subcommittee of the Committee on Environment and Public Works heard testimony from the NRC Commissioners and NRC licensees regarding the fairness and equity of the NRC user fee policy. NRC Chairman Ivan Selin noted during his testimony that the NRC had determined that the 100 percent budget recovery was not entirely fair, because some of the

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agency programs do not benefit the licensees. Selin cited international activities, support of Agreement States, the exemption of Federal agencies and nonprofit educational institutions from NRC fees, and fee reduction for small entities as activities that create unfair fee burdens on the licensees.

The revisions to 10CFR170 and 171⁽¹⁾ do not remove, from the fee base, the costs for activities that are not attributable to an existing NRC licensee or class of licensee, or activities that are not assessed Part 170 licensing and inspection fees or Part 171 annual fees based on Commission policy. The revisions to 10CFR170 and 171 delireate that these fees increase the budget by \$29.7 million. These fees increase the burden on each operating power reactor by an additional \$275,000. Because Northeast Utilities is responsible for five operating nuclear power plants (Haddam Neck Plant, Millstone Unit Nos. 1, 2, and 3, and Seabrook), our additional burden would amount to \$1,375,000.

The Chairman of the Board of Northeast Utilities, Mr. William B. Ellis, testified to the Clean Air and Nuclear Regulation Subcommittee of the Committee on Environment and Public Works on March 9, 1994, on behalf of the American Nuclear Energy Council (now part of the Nuclear Energy Institute). He noted that user fees are not always commensurate with the level of actual services rendered, despite language in the 1990 Omnibus Budget Reconciliation Act stating that fees and costs of service should be "reasonably related." Licensees currently pay for the overhead costs associated with a government bureaucracy. These overhead costs include administration and human resources programs, the cost for construction of new NRC headquarters buildings, a new agency computer system, agency personnel and training programs, international activities etc. An industry study has shown that if fees were reduced to account for these overhead costs, and the industry was held accountable for only those costs directly related to regulation, user fees would amount to approximately \$270 million in fiscal year 1994 versus the \$513 million proposed in the revisions to 10CFR170 and 171.

Mr. Ellis then noted that the nuclear power industry believes that the inception of 100 percent cost recovery through fees has weakened incentives for controlling annual costs. Because the NRC no longer competes with other Federal agencies for access to the government's general revenues, Congress and the Office of

(1) R. M. Scroggins letter to All Parts 30, 40, 50, 61, 70, 71, 72, 73, and 110 Licensees, Applicants, and Reactor Vendors, "Proposed Revisions to 10 CFR Parts 170 and 171 on License, Inspection and Annual Fees for FY 1994," dated May 6, 1994.

Management and Budget are not as focused on maximizing budget savings as they could be. Absent external, independent oversight of an agency's budgeting process, budget savings are not as likely to be realized.

Since 1990, the NRC's budget has grown by more than 23 percent in nominal dollar terms. During this time, Congressional oversight of the NRC budget has been reduced. Also, the NRC's Office of Inspector General has documented problems with the internal management controls of the NRC.

Inequities in the current NRC user fee structure are seen not only by the nuclear power industry and other licensees. The Senate is also aware of the inequities. Recently, the Senate vowed to remedy inequities in the current NRC user fee structure. During mark-up of the NRC reauthorization bill by the Senate Environment and Public Works Committee on June 23, 1994, Senator Joseph Lieberman pledged to correct the inequities before sending the bill to the full Senate. Additionally, the committee agreed to send a letter to the NRC asking them to identify potential offsets for fees charged to licenses for NRC activities from which they receive no benefit.

Additionally, Mr. Ellis stated that the NRC should be given additional flexibility to permit it to organize in a way that allows maximum efficiency in operations. An amendment eliminating the current statutory structure, focused on the organization of the statutory program offices, could give the agency maximum flexibility to organize in the most efficient and cost effective way possible.

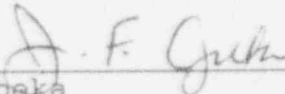
Conclusion

CYAPCO and NNECO believe that the proposed revisions to the fee requirements of 10CFR170 and 10CFR171 do not satisfy the industry's need for a more equitable NRC user fee policy. First, we believe that licensees should pay only for services rendered. We should not be required to pay for services that the NRC provides to entities unrelated to the nuclear power industry. Additionally, we believe that the NRC's current structure should be examined to ensure that the NRC has maximum flexibility to organize in the most efficient and cost-effective manner.

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Thank you for providing us with the opportunity to comment on the proposed revision to 10CFR170 and 171. Should you have any questions regarding our submittal, please contact Mr. G. P. van Noordennen at (203) 665-3288.

Very truly yours,
CONNECTICUT YANKEE ATOMIC POWER COMPANY
NORTHEAST NUCLEAR ENERGY COMPANY



J. F. Opoka
Executive Vice President

cc: T. T. Martin, Region I Administrator
A. B. Wang, NRC Project Manager, Haddam Neck Plant
W. J. Raymond, Senior Resident Inspector, Haddam Neck Plant
J. W. Andersen, Acting NRC Project Manager, Millstone Unit
No. 1
G. S. Vissing, NRC Project Manager, Millstone Unit No. 2
V. L. Rooney, NRC Project Manager, Millstone Unit No. 3
P. D. Swetland, Senior Resident Inspector, Millstone Unit
Nos. 1, 2, and 3