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DUKE POWER

'91 MAY 17 P3:42

May 13, 1991

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

Attention: Docketing and Service Branch

Subject: Proposed Rulemaking
10CFR 170, 171
Revision of Fee Schedules
56FR14870

Dear Sir:

In the Federal Register dated April 12, 1991, the Nuclear Regulatory Commission published a proposed rule that would change 10CFR 170 and 171 regarding licensing, inspection and annual fees charged to licensees. We have reviewed this proposed rule and fully endorse the positions taken by Winston and Strawn and NUMARC which are being forwarded to you separately on our behalf. Supplementing that, we are submitting the following comments on the proposed rule.

We think that there is insufficient basis to support the required costs to the power reactor licensees for activities not directly attributable or beneficial to their operation. We think that utilities should be responsible for fees directly associated with agency expenditures on power reactor regulation. Specific examples of activities which have minimal or no relationship to regulatory services are discussed in the responses provided by Winston and Strawn and NUMARC.

Secondly, we think that the approach to budget management posed in the proposed rule lends itself to run-away costs because there appears to be insufficient control and oversight built in to the process. We think that the NRC should manage its costs with the same control and scrutiny with which the power reactor industry constrains its own spending.

To elaborate, utility O & M increases are limited to correspond to anticipated electricity demand. We believe that the percentage of a utilities' O & M budget spent on NRC fees should remain constant at most and should decline with improved efficiency of the NRC function. In Duke Power's case, we have managed our nuclear O & M budget such that our production costs have declined in real dollars. That has been accomplished through improved overall performance and we would expect to see a corresponding improvement in NRC's performance as it relates to existing licensees. An additional element of cost

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control should be obtained through improved long-range planning and management of resources allocated to the regulatory function of the licensees. I emphasize existing licensees because we believe the cost associated with pursuing advanced design and new licenses should be allocated on a different basis. We are not in a position to say how this should be done, but request that it be addressed and resolved such that the existing licensees do not bear the burden of the cost of development relative to future licensees.

To summarize, we think that cost allocations should be justified and equitably proportioned. We also think that there should be adequate controls on the total NRC budget amount. The power reactor industry, including Duke, has implemented strong budgetary controls and we think it appropriate that the NRC should subscribe to as stringent a set of fiscal controls as the regulated industry.

We appreciate this opportunity to comment on such a significant rulemaking issue.

Very truly yours,



H. B. Tucker

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xc: NUMARC
Winston & Strawn