



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 21, 1996

Siemens Power Corporation
ATTN: Mr. James B. Edgar
Staff Engineer, Licensing
2101 Horn Rapids Road
P.O. Box 130
Richland, WA 99352-0130

Dear Mr. Edgar:

I am responding to your February 29, 1996, letter concerning the late invoices you received for six inspections conducted by the NRC during the periods 1991-1993 and requesting more detailed supporting information for four of these inspections.

Let me assure you that the late billing you received is not in keeping with our policy of issuing invoices for completed inspections within 30 days after the end of the billing cycle in which the inspection report was issued. The inspections conducted by the NRC of the Siemens facility were billed late for two reasons. First, the closing date for one inspection report sent to Siemens was entered into the NRC inspection report tracking system after the quarterly billing cycle was closed and therefore was not identified for billing in the subsequent billing cycle. Second, the NRC staff failed to enter into the inspection report tracking system the dates for five of the completed inspection reports sent to Siemens. Bills are prepared only after an inspection has been closed. I recognize that our errors which led to the late billings are inconvenient and pose difficulties in planning and budgeting for the fees assessed by the NRC. The NRC has taken steps to prevent future errors. The NRC has modified the inspection billing systems to include those inspections where the report sent date was entered after the close of the quarterly billing cycle. The NRC has also modified its procedures to assure that all inspection report sent dates are entered at the time the inspection is completed.

At your request, the NRC has reviewed the billable hours assessed for the four inspections, particularly those hours expended for preparation and documentation. The hours assessed for the inspections are correct. The hours assessed for preparation and documentation time in each of the four inspections are in line with the NRC methodology that it takes approximately two hours of preparation and documentation time per one hour of on-site inspection time, plus any travel time, per inspector. In addition, some inspections required additional review and documentation time to properly document one or more issues identified during the inspection.

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With respect to Inspection 93-201, you requested supporting documentation (hour and cost per analysis) for New Brunswick Laboratory (NBL) services total \$26,792 previously paid by Siemens under Invoice MM0709-94. The cost information for technical contractual support which the NRC received from NBL does not include a detailed breakout of cost per analysis. As documented in the inspection report, there were 20 samples analyzed by NBL; therefore, the approximate cost per analysis is approximately \$1,300. The Office of Nuclear Material Safety and Safeguards (NMSS) has informed us that with the implementation of the new sample exchange program, licensees can expect technical assistance costs to be reduced in the future because the number of individual samples taken and analyzed are expected to be substantially reduced. The program was implemented as a future cost benefit to the licensees and to resolve concerns about past technical assistance costs.

You point out in your letter that OBRA-90 (Public Law 101-508) requires the NRC to recover approximately 100 percent of the budget each year and that the failure to bill for the inspections to Siemens as well as to other licensees during the 1991-1993 periods must have led to unreconciled collection shortages during those periods. OBRA-90 requires that the NRC recover approximately 100 percent of its budget authority through fees. The NRC has concluded that the term "approximately 100 percent" refers to the inherent uncertainties in estimating and collecting the fees. The NRC recovered 98.5 percent for FY 1991, 99.4 percent for FY 1992 and 97.7 percent for FY 1993. The collections resulting from the late 10 CFR Part 170 inspection billings will be made in FY 1996; therefore, these amounts have been factored into the FY 1996 Part 170 collection estimates thereby helping to reduce the annual fees for FY 1996.

While I regret the late billings and recognize the inconvenience it has caused Siemens, the NRC is not in a position to waive the fees and refund the monies paid because the inspections of your facility were conducted. As you are aware, the NRC is required by the Independent Offices Appropriation Act to recover the costs of conducting such inspections. In addition, the NRC is required by the Federal Claims Collection Act of 1966 and the Debt Collection Act of 1982 to pursue debts and claims owed to the U.S. Government.

Based on the statutory requirements imposed on the NRC, we do not believe this is the type of extraordinary circumstance that would meet the criteria for a fee waiver. Although the Commission may grant exemptions from fees under 10 CFR 170.11(b) upon determining that such an exemption is authorized by law and is otherwise in the public interest, the NRC is unable to make such a finding in this instance. Accordingly, Invoice MM-0072-96 in the amount of \$115,007 is due and payable.

Mr. James B. Edgar

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August 21, 1996

As we indicated in our letter to you dated March 7, 1996, interest was temporarily waived until we had the opportunity to respond to your request. Accordingly, interest will be permanently waived if payment of the invoiced amount is received within 30 days from the date of this letter. If payment in one lump sum would represent an undue financial burden, you may request an installment payment plan as provided in 10 CFR 15.35(b). A copy of 10 CFR 15 is enclosed for your convenience.

Again, we apologize for the late billings. If you have additional questions, please contact Glenda Jackson of my staff at 301-415-6057.

Sincerely,

s/ August 21, 1996

Ronald M. Scroggins
Deputy Chief Financial
Officer/Controller

Enclosure: 10 CFR 15

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