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March 24, 1988

The Honorable Lando W. Zech, Jr.
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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U.S. NUCLEAR REGULATORY COMMISSION

Subject: Design Certification Fee For ABWR

Reference: Letter from C. James Holloway, Jr. (NRC) to
R. Artigas (GE), dated March 14, 1988

Dear Chairman Zech:

The purpose of this letter is to request your support in resolution of the matter of the fee to be incurred by the General Electric Company in the certification of its Advanced Boiling Water Reactor (ABWR). We have been encouraged by the Commission's strong support of this program at each of the three meetings we have had with the Commission since the program began in 1986, and by the NRC staff's support of the licensing effort to date.

As you know, GE recently applied for certification of the ABWR as a standard plant. This application was made as part of a U.S. Department of Energy program to develop and demonstrate a predictable licensing process for standard plants in the U.S., and thereby eliminate one of the current obstacles to revival of the U.S. nuclear option. GE is contributing its ABWR, recently adopted as the next generation BWR for Japan, as a demonstration vehicle for this important national program.

Our application was submitted with the understanding that the total fee for final design approval and certification of the ABWR would be limited to the \$1,427,100 currently specified in 10CFR Part 170, and that this fee would be deferred for up to 10 years in accordance with the Commission's March, 1987 decision regarding deferral of fees for standard plants. We believed (and still believe) that it is appropriate and in keeping with the national interest for the Commission to waive all fees for participants involved in the establishment of the certification process - a process that is largely undefined and fraught with uncertainty. Nevertheless, GE reluctantly accepted the combination of a capped and deferred fee in spite of the fact that there seems to be little prospect of a nuclear market in the U.S. for the foreseeable future.

Contrary to our understanding, however, the referenced letter indicates that the NRC staff intends to recover the full cost of certification without any cap, and that accumulated NRC costs would be immediately charged to GE

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if the application is "denied, withdrawn, suspended, or action on the application is postponed." We believe that this action is contrary to the Commission's policy of encouraging standardization and the Commission's March, 1987 decision regarding deferral of fees for standard plants. We also believe it is unfair to those of us within the industry who have undertaken this pioneering standardization effort. Our reasons are several:

1. A key objective of the DOE and NRC standardization effort is to remove uncertainty and demonstrate predictably in the licensing process. We do not believe it was the intent of the Commission's March, 1987 decision on fee deferral for standard plants to add yet another uncertainty and disincentive in the form of an unlimited fee.
2. The U.S. does not currently have a defined and proven review and certification process for standard plants -- a fact which is amply demonstrated by our mutual inability to achieve a certification of our BWR/6 GESSAR design in spite of sustained and dedicated effort by the GE and NRC staff. Clearly certification of the ABWR will require a considerable effort by the NRC staff to define and demonstrate a workable standard plant review and certification process, and will inevitably cause additional effort by GE. We do not believe that it is fair to expect GE to pay for, in addition to its own effort, the NRC staff effort to develop a "first-of-a-kind" standard plant review and certification process. The NRC should fund its own costs in this area. A fee cap at the currently established level would achieve this.
3. DOE, GE and NRC have all entered this "first-of-a-kind" program with recognition that there are many uncertainties and risks -- that success will require the best efforts of all of our organizations -- and that even so there are factors beyond the control of any of us that could prevent issuance of an ABWR certification. With this going-in recognition, we feel it is unfair for the NRC staff to adopt a position that, in the event of failure, the costs are to GE's account regardless of the circumstances. We believe GE should have the future option to apply for a waiver of fees if the program fails to achieve its objectives for reasons beyond GE's control.
4. Finally, the NRC staff approach to certification cost recovery requires GE to, in effect, assume an unlimited liability. We of course frequently purchase services on a "time and materials" basis, but normally only after reaching agreement with the supplier on a work plan, schedule, cost estimate, not-to-exceed costs, and receiving assurance through audit or other means that costs invoiced to GE are appropriate. We would not suggest that these controls are appropriate to the

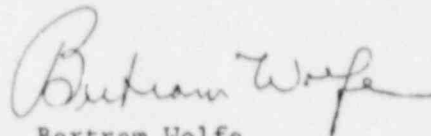
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regulator/applicant relationship which exists on the present program -- but at the same time we do not feel it is appropriate for the NRC to expect GE to assume an unlimited liability. A capped fee would avoid these difficulties.

Our concerns would be resolved if the Commission would confirm our understanding that the ABWR review and certification fee is both capped at the present level and deferred, and indicate a willingness to revisit the fee issue if the program fails to achieve its objectives for reasons beyond GE's control.

We have been greatly encouraged by the Commission's strong support for standardization. GE is committed to standardization, and we believe our actions over many years on GESSAR and more recently on the ABWR demonstrate this commitment. We are hopeful that your response to this fee issue will provide a basis for continuing this important national program and achievement of practical standardization in the U.S. nuclear program.

Sincerely yours,



Bertram Wolfe
Vice President & General Manager
GE Nuclear Energy

cc: F. M. Bernthal, Commissioner
K. M. Carr, Commissioner
K. Rogers, Commissioner
T. M. Roberts, Commissioner
V. Stello, Jr., EDO
D. F. Bunch, DOE
D. J. McGoff, DOE
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C. J. Holloway, Jr., NRC ✓
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