



SECRET NUMBER  
PROPOSED RULE

FR 120,171  
(53 FR 24077)

17

GE Nuclear Energy

General Electric Company  
175 Curtner Avenue, San Jose, CA 95125

DOCKETED  
USNRC

(408) 925-5040  
MFN#60-88

July 28, 1988

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

Attention: Docketing and Service Branch

Subject: Comments to Revision of Fees Schedule

Reference: June 27, 1988 Federal Register Notice (Vol. 53, No. 123)

Attachment: March 24, 1988 letter to the Honorable Lando W. Zech, Jr. from  
Dr. Bertram Wolfe, Vice President and General Manager, GE  
Nuclear Energy (MFN#28-88)

With regard to the subject proposed regulation amendment we have comments in two major areas. These are the treatment of fees on reviewing Standard Reference Designs and the need for a cap on all fees.

#### Standard Reference Design Reviews

We are encouraged by the proposed ten year deferral of fees for design certifications on standard designs. However, we are concerned that the uncapped fee approach to cost recovery exposes a standard design applicant to an unlimited liability. This will have a detrimental impact on standardization. We strongly recommend that the current limit of \$1.4M be maintained for review and certification of standard plants. Further, to encourage the initial efforts of standardization and until a workable review and certification process for standard plants has been demonstrated, we recommend that all standard plant review and certification fees be waived. The attached letter from Dr. Wolfe to Chairman Zech specifically addresses these matters relative to the ABWR Design Certification Program.

#### Special Projects

The \$20,000 cap of the current regulation for review fees for special project submittals should be retained. The removal of the cap on the fees for licensing topical reports may have the unwanted effect of increasing the expenditure of staff resources. It is recognized that some reports require an extended review by the staff and that the applicant has no

8808040240 880728  
PDR PR  
170 53FR24077 PDR

DS10

R.C. Mitchell to Secretary, NRC

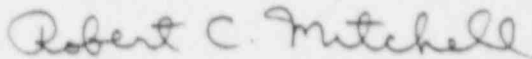
Page 2

July 28, 1988

control and limited ability to direct this review. Removing the cap will discourage the submittal of generic topical reports. This would necessitate individual utility submittals which requires multiple staff reviews for each new item. Further, removing the cap would discourage timely updates of licensing models and reports. Applicants may not be as quick to submit state of the art changes when a protracted review might ensue. This defeats the overall objective of encouraging new and improved predictive models and products.

We encourage you to implement the above recommendations. If you have any questions or comments on these, please feel free to call me at (408) 925-2755.

Sincerely yours,



Robert C. Mitchell  
Manager, Nuclear Products Licensing

cc: R. C. Berglund  
L. S. Rubenstein, NRC  
D. R. Wilkins  
B. Wolfe



Bertram Wolfe  
Vice President and General Manager

General Electric Company  
175 Curtner Avenue, San Jose, CA 95125  
408 925-8900

MFN 028-88

March 24, 1988

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

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

~~8804060396~~  
3pp.

---

The Honorable Lando W. Zech, Jr.  
March 24, 1988  
Page 2

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

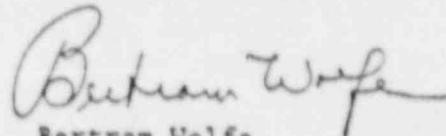
The Honorable Lando W. Zech, Jr.  
March 24, 1988  
Page 3

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  
R. Artigas, GE  
D. R. Wilkins, GE  
C. J. Holloway, Jr., NRC  
L. Rubenstein, NRC  
D. F. Giessing, DOE  
F. A. Ross, DOE