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AlabamaPower
the southern electric system

September 19, 1986

Docket Nos. 50-348
50-364

RECEIVED

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Director, Office of Administration
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

U.S. N.R.C.
LIC. FEE MGMT. BRANCH

Attention: Ms. Patricia G. Norry

Gentlemen:

Joseph M. Farley Nuclear Plant - Units 1 and 2
NRC Invoice for Review of Part 50 Applications

By letter of June 11, 1986, Alabama Power Company appealed charges invoiced for NRC review of an April 19, 1985 submittal regarding containment vent and purging. On July 31, 1986 the NRC denied this appeal based on a subsequent review of the issues by the Office of Nuclear Reactor Regulation (ONRR) Staff. Alabama Power Company takes exception to this second review in that the rationale given by the NRC does not address the basis cited for the appeal and is an extension of the fee provisions of 10CFR170 to unrelated NRC activities. Specific Alabama Power Company concerns are provided below.

1. The April 19, 1985 Alabama Power Company submittal was not an amendment, exemption, relief or other related approval request. That submittal was merely a notification to the NRC that their activities regarding this issue were considered to be a backfit request and, as such, should be pursued by the NRC in that manner. Neither 10CFR170.12(c) nor 10CFR170.21 apply to backfit activities.
2. The July 31, 1986 NRC appeal denial cited a May 17, 1984 evaluation for Unit 2 in which containment vent and purging was considered an open issue. This evaluation was performed in response to an Alabama Power Company November 24, 1982 administrative Technical Specification change request. The 10CFR170 provisions cited by the NRC, however, were issued May 21, 1984. Thus, they are not applicable for an issue in which NRC closure was granted May 17, 1984. All charges related to the original November 24, 1982 submittal were thus subject to the previous 10CFR170 provisions; namely, the \$1200 administrative fee paid at the time of submittal.

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3. ONRR arguments that tie the November 24, 1982 submittal to the April 19, 1985 backfit letter are tenuous. The November 24, 1982 submittal did not address containment vent and purging. It merely submitted administrative changes, one of which was to reflect the as-built condition of the plant utilizing 8-inch valves not 18-inch valves as the Technical Specifications stated. Additionally, the change from 18-inch to 8-inch valves had been made at the request of the NRC. The NRC comment about containment vent and purging remaining an open issue was considered by Alabama Power Company as not only inappropriate for inclusion in the May 17, 1984 NRC SER but also unrelated to the original request.
4. It should be noted that the May 17, 1984 NRC SER was docketed for Unit 1 only. Thus, if the NRC is successful in its pursuit of the fee charges based on item 3 above, then only that portion attributable to Unit 1 should be specified.

In summary, Alabama Power Company considers the continuing NRC insistence on the applicability of 10CFR170.12(c) and 10CFR170.21 fees to be unjustified. Additionally, it is felt that the NRC did not provide in its July 31, 1986 appeal denial any justification for its determination. It merely restated the issues without addressing their direct relationships to the provisions of 10CFR170. Alabama Power Company therefore requests that a clarification be provided to address all issues raised in this and the June 11, 1986 letter.

In order to separate the administrative accounting for this issue from the technical arguments, enclosed is a check for \$4,613.00 to cover the remaining balance on invoice No. E0588 through September 23, 1986. Although payment is being made, this matter is still considered to be under protest.

If you have any questions, please feel free to contact me. Your personal attention in this matter is requested.

Respectfully submitted,

ALABAMA POWER COMPANY



R. P. McDonald

RPM/JAR:dst-D-T.S.5

Enclosure

cc: Mr. L. B. Long
Dr. J. N. Grace
Mr. E. A. Reeves
Mr. W. H. Bradford
Mr. C. J. Holloway, Jr.
Ms. J. M. Rodriguez