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October 15, 2021

Ms. Cherish K. Johnson
Chief Financial Officer
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Fee Exemption Request for Review and Endorsement of NEI 20-07, "Guidance for Addressing Common Cause Failure in High Safety-Significant Safety-Related Digital I&C Systems"

Project Number: 689

Dear Ms. Johnson:

On September 30, 2021, NEI¹ submitted a draft version of NEI 20-07, Draft D, "Guidance for Addressing Software Common Cause Failure in High Safety-significant Safety-related DI&C Systems" to the U.S. Nuclear Regulatory Commission (NRC) staff for review. NEI 20-07 plays a key role in modernizing the DI&C regulatory framework by providing a performance-based methodology to implement control measures to address Common Cause Failure during design and implementation of high safety-significant safety-related DI&C system upgrades. This methodology is being successfully used in other safety-related industries. NEI 20-07 complements Branch Technical Position (BTP) 7-19, Revision 8, "Guidance for the Evaluation of Defense-in-Depth and Diversity to Address Common Cause Failure Due to Latent Defects in Digital Safety Systems." In particular, Section B.3.1.3 of BTP 7-19, "Use of Alternate Methods to Eliminate the Potential for Common-Cause Failure from Further Consideration," specifies that an NRC-approved methodology that utilizes defensive measures (or control measures) can be used to limit the potential for a common-cause failure. NEI 20-07, Draft D, is intended to provide such an alternate method.

Additionally, NEI 20-07 contributes to the ongoing work by the NRC to modernize the Digital Instrumentation and Control regulatory infrastructure as detailed in the Integrated Action Plan (ML19025A312). Modernization Plan #1 describes activities for addressing methods to eliminate the potential for digital common cause failure. NEI 20-07 contributes to the ongoing efforts described in Modernization Plan #1.

¹ The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

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Due to the direct link between BTP 7-19 and NEI 20-07 that will result in generic benefit to the NRC and the nuclear industry, NEI believes there is mutual interest in reviewing NEI 20-07 and that a fee exemption is appropriate. We are therefore submitting this letter to request a fee exemption to cover all activities involved in the review of NEI 20-07.

The NRC has an established regulation governing fee exemptions as stated in 10 CFR 170.11, "Exemptions." In accordance with 10 CFR 170.11, NEI requests a fee exemption for the review of NEI 20-07 based on regulation 10 CFR 170.11(a)(1)(ii), which states that no fees shall be required for special projects that are requests or reports submitted to the NRC "[w]hen the NRC, at the time the request/report is submitted, plans to use the information in response to an NRC request from the Office Director level or above to resolve an identified safety, safeguards, or environmental issue, or **to assist the NRC in generic regulatory improvements or efforts** (e.g., rules, regulatory guides, regulations, policy statements, generic letters, or bulletins)." [emphasis added]

NEI believes that the effort to improve the licensing process for high safety-significant safety-related DI&C systems constitutes the exact type of generic regulatory improvement envisioned by 10 CFR 170.11. NRC reviews and other efforts conducted in response to the NEI 20-07 will result in generic regulatory improvements and optimized allocation of resources in licensing and implementing high safety-significant safety-related DI&C systems.

Please contact me at adc@nei.org or (202) 439-3698 should you have any questions or concerns.

Sincerely,



Alan Campbell

c: William Roggenbrodt (NRR/DEX/EICB)
Tekia Govan (NRR/DRO/IRAB)
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