



CHIEF FINANCIAL
OFFICER

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

May 18, 2022

Darani M. Reddick
Director of Licensing
Constellation Energy Generation, LLC
200 Exelon Way, KSA-3E
Kennett Square, PA 19348

SUBJECT: RESPONSE TO FEE EXEMPTION REQUEST FOR REVIEW FEES
ASSOCIATED WITH THE EVALUATION OF THE LIMERICK DIGITAL
MODERNIZATION PROJECT LICENSE AMENDMENT REQUEST

Dear Darani Reddick:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated January 21, 2022 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML22021B665), requesting a fee exemption under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(b) to cover fiscal year 2023 review fees associated with the evaluation of the Limerick Digital Modernization Project License Amendment Request (LAR).

The NRC has established regulations for the granting of fee exemptions under 10 CFR 170.11, "Exemptions." An interested person may apply for an exemption under 10 CFR 170.11 in accordance with 10 CFR 170.5, "Communications." The NRC staff also reviewed your request based on 10 CFR 170.11(b) and 10 CFR 170.11(a)(13). Section 170.11(b) states

The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of this part as it determines are authorized by law and are otherwise in the public interest. Applications for exemption under this paragraph may include activities such as, but not limited to, the use of licensed materials for educational or noncommercial public displays or scientific collections.

and section 170.11(a)(13) states

All fee exemption requests must be submitted in writing to the Chief Financial Officer in accordance with § 170.5,¹ and the Chief Financial Officer will grant or deny such requests in writing.

¹ 10 CFR 170.5 provides that "All communications concerning the regulations in this part should be addressed to the NRC's Chief Financial Officer, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM."

After review, the NRC staff has determined that your fee exemption request does not meet the criteria for an exemption pursuant to 10 CFR 170.11(b). The Nuclear Energy Innovation and Modernization Act (NEIMA) requires the NRC to recover through fees, to the maximum extent practicable, approximately 100 percent of its annual budget authority, less the budget authority

for excluded activities. Under NEIMA, the NRC must also use its Independent Offices Appropriation Act, 1952, authority first to collect 10 CFR Part 170 service fees for NRC work that provides specific benefits to identifiable recipients, such as licensing activities, inspections, and special projects. In your request, you identified specific benefits such as continued safe, reliable, and cost-effective performance that will result from Limerick's LAR, which is a licensing activity. User fees are appropriate where the licensee derives such benefits, including long-term viability, from NRC's services. The review of the Limerick LAR is a fee-billable activity.

In your letter, you assert that the actions listed will demonstrate the successful design, licensing, and implementation of a full-scale boiling water reactor (BWR) digital safety digital instrumentation and control (DI&C) system upgrade, validate new processes and tools, and provide confidence for other licensees to undertake full-scale digital upgrades, and therefore is a benefit to the industry that satisfies the public interest. However, your letter did not explain how the benefit to the industry is on whole in the public interest. For example, your letter did not explain how the review will improve the effectiveness of NRC's licensing approach with specific goals, for example, of updating NRC licensing or inspection guidance to reflect a planned industry trend in digital upgrades. Your request indicated that the Limerick LAR will use both Interim Staff Guidance 06, Revision 2, "Licensing Process," (ISG-06, Revision 2) dated December 2018 (ML18269A259) and Branch Technical Position 7-19, Revision 8 (BTP 7-19, Revision 8) (ML20339A647), but, it did not describe how the review of the Limerick LAR would result in additional generic insights that can be used to enhance the efficacy or efficiency of the regulatory process, beyond those achieved to date by other DI&C reviews and pre-application activities. Although your letter references potential operational benefits of Constellation's planned digital upgrade, the information provided did not justify that these operational benefits result in an overall public benefit.

Your request also states that a series of reports will be published through the U. S. Department of Energy. However, you did not describe how these specific reports would be on the whole in the public interest.

For the reasons cited above, I am denying your request to grant Constellation a fee exemption under 10 CFR 170.11(b) to cover review fees associated with the evaluation of the Limerick Digital Modernization Project LAR.

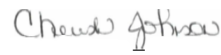
Constellation is welcome to start technical engagement with the NRC, and 10 CFR Part 170 fees will be assessed for the NRC's efforts. Constellation may also submit a subsequent fee exemption request consistent with 10 CFR 170.11. If a future fee exemption is requested, it will be processed based on the criteria in 10 CFR 170.11.

D. Reddick

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If you have any technical questions regarding this matter, please contact Michael Marshall at 301-415-2871. Please contact Billy Blaney, of my staff, at 301-415-5092, for any fee-related questions.

Sincerely,

A handwritten signature in cursive script that reads "Cherish K. Johnson".

Signed by Johnson, Cherish
on 05/18/22

Cherish K. Johnson
Chief Financial Officer

SUBJECT: RESPONSE TO FEE EXEMPTION REQUEST FOR REVIEW FEES ASSOCIATED WITH THE EVALUATION OF THE LIMERICK DIGITAL MODERNIZATION PROJECT LICENSE AMENDMENT REQUEST, DATED: MAY 18, 2022

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