



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

July 10, 2024

CHIEF FINANCIAL
OFFICER

George Wilson, Vice President
Regulatory Affairs
TerraPower, LLC
15800 Northup Way
Bellevue, WA 98008

SUBJECT: FEE EXEMPTION REQUEST FOR REVIEW AND EVALUATION OF SAFETY
AND SECURITY PORTIONS OF THE USO CONSTRUCTION PERMIT
APPLICATION

Dear George Wilson:

On behalf of the U.S. Nuclear Regulatory Commission (NRC) staff, I am responding to your letter dated June 3, 2024, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML24155A242), in which TerraPower, LLC (TerraPower) requested a fee exemption under Title 10 of the *Code of Federal Regulations* (10 CFR) 170.11(a)(1)(ii) to cover activities associated with the NRC staff's review and evaluation of safety and security portions of the US SFR Owner, LLC (USO) construction permit (CP) application.

The NRC staff 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 reviewed your request consistent with the following regulations, 10 CFR 170.11(a)(1)(ii) and 10 CFR 170.11(d).

Section 170.11(a)(1)(ii-iii) states:

10 CFR 170.11(a) No application fees, license fees, renewal fees, inspection fees, or special project fees shall be required for: (1) A special project that is a request/report submitted to the NRC— . . . (ii) When the NRC staff, at the time the request/report is submitted, plans to use the information to assist the NRC staff in generic regulatory improvements or efforts (e.g., rules, regulatory guides, regulations, policy statements, generic letters, or bulletins); or, (iii) When 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.

10 CFR 170.11(d) 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

Fee exemptions are granted for submitted documents where the NRC staff can determine that at least one exception stated in 10 CFR 170.11(a) is met. As discussed below, this request does not satisfy the specified criteria of 10 CFR 170.11; therefore, I am denying the request to grant TerraPower and its subsidiary USO a fee exemption to cover activities associated with the NRC staff's review and evaluation of the safety and security portions of the USO CP application.

The letter states that the fee exemption is being requested in accordance with 10 CFR 170.11(a)(1)(ii), which is for a special project that the NRC, at the time the request/report is submitted, plans to use the information to assist the NRC staff in generic regulatory improvements or efforts (e.g., rules, regulatory guides, regulations, policy statements, generic letters, or bulletins). The regulations in 10 CFR 170.3, "Definitions," define "special projects" as "specific services provided by the Commission for which fees are not otherwise specified in this chapter." The regulations in 10 CFR 170.21 specify that the fees for the review of a CP application will be charged at full cost. Therefore, the NRC staff finds that the review of the USO CP application is not a special project under 10 CFR 170.11(a)(1).

Moreover, even if the USO CP application could be considered a "special project" under 10 CFR 170.11(a), the letter does not provide a sufficient explanation as to how a review of your application for a CP would assist the NRC staff in generic regulatory improvements or efforts beyond what would be expected of routine opportunities to learn from new licensing applications and the use of new guidance. Specifically, the letter does not explain how the CP application's uses the proposed approaches (i.e., risk-informed safety and security methodologies) would support future revisions of regulatory guidance, including Regulatory Guides (RG) 1.233, "Guidance for a Technology-Inclusive, Risk-Informed, and Performance-Based Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light Water Reactors," or RG 1.253, "Guidance for a Technology-Inclusive Content of Application Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors." Therefore, I am also denying your request for a fee exemption since it does not meet the criteria in 10 CFR 170.11(a)(1)(ii).

Notwithstanding this denial, TerraPower and its subsidiary USO can choose to submit specific requests for a more targeted fee exemption request for activities that may warrant consideration of a fee exemption, such as for topical report reviews or other activities that could be considered as special projects under the regulations. If fee exemptions are requested for any future activities, they would be processed on their own merits based on the criteria in 10 CFR 170.11.

If you have any technical questions regarding this matter, please contact Mallecia Sutton, Senior Project Manager at 301-415-0673 or via email at Mallecia.Sutton@nrc.gov. Please contact Billy Blaney, Senior Budget Analyst of my staff, at 301-415-5092 or via email at William.Blaney@nrc.gov, for any fee-related questions.

Sincerely,



Benner, Eric signing on behalf
of Golder, Jennifer
on 07/10/24

Jennifer M. Golder
Acting Chief Financial Officer

SUBJECT: DENIAL OF FEE EXEMPTION REQUEST FOR REVIEW AND EVALUATION OF SAFETY AND SECURITY PORTIONS OF THE USO CONSTRUCTION PERMIT APPLICATION, DATED: JULY 10, 2024

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OFFICE	OCFO/DOB	OCFO/DOB	NRR/DANU	NRR/DANU	NRR/DANU
NAME	JJacobs	WBlaney	MSutton	JBorromeo	MShams
DATE	06/25/2024	06/26/2024	06/26/2024	06/26/2024	06/26/2024
OFFICE	NRR	OGC	OCFO/DOC	OCFO/DOC	OCFO/DOB
NAME	AVeil	RSiegman ^{NLO}	RRevinzon	MBlair	ARossi
DATE	06/27/2024	07/03/2024	07/08/2024	07/08/2024	07/03/2024
OFFICE	OCFO/DOB	OCFO/DOB	D/CFO		
NAME	LYee	MNeville	JGolder		
DATE	07/10/2024	07/09/2024	07/10/2024		

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