

February 14, 2002

Electric Power Research Institute
ATTN: Mr. Ramesh Shankar
Manager, Instrumentation and Control
3412 Hillview Avenue
Palo Alto, CA 94304-1395

Dear Mr. Shankar:

I am responding to your letter dated January 22, 2001, sent to the attention of Leonard Olshan of the Office of Nuclear Reactor Regulation (NRR), requesting a waiver of the fees under Footnote 4 of 10 CFR 170.21(J) (hereafter referred to as Footnote 4) for the review of the Electric Power Research Institute (EPRI) Topical Report, "Guidelines for Electromagnetic Interference (EMI) Testing in Power Plant Equipment, TR-102323, Rev. 2." For the reasons stated below, your request for an exemption from the 10 CFR 170 fees is denied.

Your bases for requesting the fee waiver are: 1) the report is a revision to generic guidance for digital equipment modifications followed by all nuclear plants since 1996; 2) EPRI has conducted several training courses to assure that their members are able to meet the guidance effectively and efficiently; and 3) the revised guidelines are expected to clarify equipment emissions testing limits and susceptibility limits, applicability for non-safety related equipment and use of commercial standards. You contend that because these revised guidelines are used to clarify and implement regulatory guidance in 2001, Rev. 2 constitutes an improvement in how industry will follow that regulatory guidance and, therefore, you believe Rev. 2 meets the fee waiver provision of Footnote 4, criteria (c).

Criterion (c) of Footnote 4 provides that fees will not be assessed for requests/reports submitted to the NRC as a means of exchanging information between industry organizations and the NRC for the purpose of supporting NRC's generic regulatory improvements or efforts. In an effort to assist licensees in determining in advance whether their submissions meet the criteria for the fee waiver in Footnote 4, the NRC restated in the FY 2001 final fee rule (66 FR 32462) the original statements of consideration from the FY 1994 rule relating to the fee waivers. Criterion (c) of Footnote 4 was revised to clarify that the reports/requests must be submitted for the purpose of supporting NRC's regulatory improvements for the fee to be waived. The fee waiver does not apply to those reports/requests submitted for the purpose of furthering the industry's generic actions.

Electromagnetic interference (EMI), radio-frequency interference (RFI), and power surges had been identified as environmental conditions that could affect the safe performance of electrical equipment in a nuclear power plant. The original topical report TR-102323 was submitted to

the NRC in December 1994 to address that regulatory concern. The staff determined that the submittal of TR-102323 met the newly established fee waiver criteria in Footnote 4, criterion 3 (currently designated (c)), because the staff intended to use the information for developing Regulatory Guide (RG) 1.180 (designated DG-1029 in draft) "Guidelines for Evaluating Electromagnetic and Radio-Frequency Interference in Safety-Related Instrumentation and Control Systems." Technical Assignment Control (TAC) number M91235 was assigned for the purpose of recording the manpower expended for the staff's review of the topical report, and the TAC was coded non-fee billable.

The NRR staff's review of Rev. 1, to TR-102323, which was submitted by letter dated October 19, 1995, was incorporated into its review of the original TR-102323, and the staff hours expended were reported to the same non-fee billable TAC M91235. The Safety Evaluation Report (SER) was issued April 17, 1996. The staff incorporated EPRI's TR-102323 and TR-102323, Rev. 1, by reference into RG 1.180.

TR-102323, Rev. 2, however, proposes to revise the EMI limits "... in order to reduce excessive conservatism ..." based on plant operating experience and guidance in Regulatory Guide 1.180. Also, Rev. 2 considers broader monitoring for frequency ranges above 1 GHz due to the wider use of telecommunication devices. The purpose for the review is to determine if the proposed revisions are acceptable. The NRC staff has advised us that TR-102323, Rev. 2, was not submitted for the purpose of supporting current or planned NRC generic regulatory improvements or efforts, and they have no plans to revise RG 1.180 to endorse TR-102323, Rev. 2. Accordingly, your request for an exemption from the fees based on criterion (c) of Footnote 4 is denied.

We have revised Invoices RL0571-01 and RL0058-02 to reflect a new due date. The revised invoices are enclosed. If payment is made within the 30 days of the invoice date, no interest or late charges will be assessed.

I apologize for the time it has taken us to respond to your letter. However, my staff had to locate and review documents and other information from 1994 to fully understand the sequence of events associated with the review of TR-102323 and TR-102323, Rev. 1, which added to the time to respond to your request.

As provided in 10 CFR 170.5 and 171.9, please send all future correspondence regarding NRC fees to the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. In addition, to assist NRC in making timely decisions on future fee waiver requests, it is requested that any topical report for which EPRI seeks a fee waiver under criterion (c) of Footnote 4 include a statement indicating the purpose for which the report is

being submitted. Prior to commencing the technical review of the submittal, the NRC will notify EPRI whether the fee waiver is granted or denied. In this manner, in the event the waiver is denied, EPRI will have an opportunity to determine if it wants to withdraw the request prior to costs being incurred which must be billed to EPRI.

If you have any questions, please contact Ellen Poteat of my staff at 301-415-6392.

Sincerely,

**Original signed by
Jesse L. Funches**

Jesse L. Funches
Chief Financial Officer

Enclosures: Invoices RL0571-01
and RL0058-02

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**Original signed by
Jesse L. Funches**

Jesse L. Funches
Chief Financial Officer

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and RL0058-02

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***See previous concurrence**

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