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DOCKET NUMBER
PROPOSED RULES 170+171
(68FR 16374)

May 5, 2003

Secretary
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

DOCKETED
USNRC

May 8, 2003 (9:25AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Attention: Rulemaking and Adjudication Staff

Subject: Entergy Nuclear Operations, Inc.
Pilgrim Nuclear Power Station
Docket No.: 50-293
License No.: DPR-35

Proposed Rule: *Revision of Fee Schedules: Fee Recovery for FY 2003.*
Federal Register Vol. 68, No. 64, Pages 16374 – 16395 dated April
3, 2003

LETTER NUMBER: 2.03.070

Dear Sir:

Entergy Operations, Inc. (Entergy) is pleased to submit comments in the above captioned matter. NRC's ongoing reform efforts appear to be producing significant improvements in the agency's approach to regulation. As well, industry performance is at or above historically high levels. We believe changes in the NRC's regulatory approach and the industry's continued excellent performance should result in a decrease in the NRC's overall budget and a decrease in attendant fees charged to licensees and applicants. The NRC should continue to seek opportunities for increased efficiency of its operation and organization. The aggregation of a substantial portion of non-discrete expenditures does not support strong fiscal oversight and makes it virtually impossible for licensees to comment on the appropriateness of these expenditures.

Entergy believes the NRC's approach to allocation of fees through 10CFR Part 171 generic fee assessment disproportionately allocates recovery of NRC expenditures. Approximately 76% of the NRC's budget is recovered under 10CFR Part 171 and only 24% under the discrete fee provisions of 10CFR Part 170, which directly support operating power reactors. The NRC should revise Parts 170 and 171 to discretely allocate generic program costs to individual dockets and explain in more detail the association of costs with the proposed generic fee assessments. Without adequate explanation of the bases for the generic costs, it is very difficult for licensees to evaluate the agency activities that their fees support. Consistent with the notice and comment rulemaking provisions of the Administrative Procedures Act, stakeholders should be told the costs in sufficient detail to enable them to provide meaningful comment. Two significant benefits will result from such action. Stakeholders could provide the NRC with more effective feedback on the efficiency of regulatory activities if Part 171 related costs were described with specificity. By making the cost of actual services and other agency

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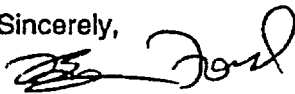
obligations (e.g. overhead) more visible, the Commission would be compelled to exercise its authority to promote increased fiscal responsibility.

A significant portion of this years increase is attributable to NRC security increases. Entergy objects to the inclusion of homeland security activities in the fee structure. The president's FY 2003 budget requested that NRC's funding for homeland security activities continue to be excluded from the fee as it was in 2002. The costs to support homeland security activities should be funded through the general treasury - not user fees - as part of the nation's protection of critical infrastructure. There is duplication and overlap of functions in Nuclear Security and Incident Response (NSIR) with those of other federal agencies who have primary responsibility and expertise for threat assessment and the Department of Homeland Security (DHS) that has responsibility for vulnerability assessments. Prior to the events of 9-11, nuclear security was the gold standard of industrial security. It is even more so today. We will continue to engage the DHS and congressional leaders on this issue.

Entergy and most licensees begin their budget for the next fiscal year approximately a year in advance. Typically, this budget is finalized 3 or more months before the fiscal (usually calendar year) begins, and budget managers are held accountable for meeting their projections. Contrast this with the NRC process that publishes its fee structure in the third quarter of its current fiscal year and then attempts to balance its books in its last quarter. It takes no foresight to budget retroactively to what has already been spent. This retroactive budgeting does not encourage fiscal responsibility by the NRC staff. The NRC fee increases are seen by the licensees almost a year after their budgets have been initially set. The current NRC process only works well when there is no fee increase. If the NRC shifted their process by 1 year (e.g. the 2003 fee collection was in fact the 2004 projection), licensees would only see 25% of the proposed increase "out of budget" (instead of 125%) since the government fiscal year starts one fiscal quarter before most licensees' fiscal (calendar) year. Prior year shortfalls would still be made up in the following fiscal year.

Thank you for the opportunity to provide these comments. We also endorse the comments submitted by the Nuclear Energy Institute on behalf of the commercial nuclear industry. Entergy looks forward to increased agency efficiency and more effective use of resources from a reduced and more equitable fee structure.

Sincerely,


for William J. Riggs

REB/dd