



Program Management Office
1000 Westinghouse Drive
Cranberry Township, PA 16066

PWROG-16043-P, Revision 2
Project Number 694

September 7, 2017

OG-17-262

Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemaking and Adjudications Staff

Subject: Pressurized Water Reactor Owners Group (PWROG) Fee Dispute under 10
C.F.R. § 15.31 – Review of PWROG-16043-P, Revision 2

Reference:

1. Letter from M. Wylie, NRC to J. Stringfellow, PWROG (July 27, 2017)
2. Letter from J. Stringfellow, PWROG to M. Wylie, NRC, "PWR Owners Group, Request for Exemption from NRC Fees to Review PWROG-16043-P, Revision 2, "PWROG Program to Address NRC Information Notice 2012-09: "Irradiation Effects on Fuel Assembly Spacer Grid Crush Strength" for Westinghouse and CE PWR Fuel Designs," dated January 2017" (May 24, 2017)

Dear Rulemaking and Adjudications Staff:

In accordance with 10 C.F.R. §§ 170.51 and 15.31, the Pressurized Water Reactor Owners Group (PWROG) hereby disputes the NRC Chief Financial Officer's denial, in Reference (1), of the PWROG's request for a fee waiver under 10 C.F.R. § 170.11(a)(1), in Reference (2), for the review of PWROG-16043-P, Revision 2, "PWROG Program to Address NRC Information Notice 2012-09: "Irradiation Effects on Fuel Assembly Spacer Grid Crush Strength" for Westinghouse and CE PWR Fuel Designs," dated January 2017 ("PWROG-16043-P, Revision 2"). This dispute is timely under Section 15.31 because no initial demand letter has been sent by the NRC to the PWROG. The PWROG respectfully request that the Office of the Secretary reverse the Chief Financial Officer's denial of the fee waiver request in Reference (1) and return the fees charged by the NRC to the subject project to the PWROG.

By way of background, PWROG-16043-P, Revision 2 provides a generic approach that will be utilized to address the end-of-life effects on fuel assembly space grid strength in fuel assembly structural integrity evaluations for Westinghouse and Combustion Engineering (CE) fuel designs. NRC approval of this topical report will ensure that a common, consistent approach will be used for these fuel assembly structural integrity evaluations; therefore, this review will support ongoing NRC generic regulatory improvement efforts associated with the issue identified in NRC Information Notice 2012-09.

Under 10 C.F.R. § 170.11(a)(1):

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, 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).

As indicated by its title and as discussed on several occasions during meetings between PWROG and NRC in early 2016, the PWROG submitted PWROG-16043-P, Revision 2 to the NRC for the specific purpose of supporting ongoing NRC generic regulatory improvements to address the issue identified in Information Notice 2012-09.

Therefore, the NRC's review of PWROG-16043-P, Revision 2 should be exempt from fees under Section 170.11(a)(1)(ii).

In Reference (1) the NRC denied the PWROG's fee waiver request because PWROG-16043-P, Revision 2 purportedly presents an "alternate" Westinghouse-specific methodology for addressing irradiation effects on fuel mechanical seismic/loss of coolant accident design analyses. According to Reference (1), the fact that PWROG-16043-P, Revision 2 is designated Westinghouse Proprietary "highlights that it is not a generic industry response to a NRC request."

This analysis is incorrect for several reasons. First, the question of whether PWROG-16043-P, Revision 2, presents a Westinghouse-specific methodology is irrelevant to the fee exemption analysis. Instead, the question under Section 170.11(a)(1)(ii) is whether the information will "assist the NRC in generic regulatory improvements or efforts," not whether the particular information is generically applicable when considered in isolation. As explained in Reference (2) and above, at the time the PWROG submitted PWROG-16043-P, Revision 2, the PWROG understood that the NRC planned to use the information in it to assist it in addressing the issues identified in Information Notice 2012-09.

In any event, PWROG-16043-P, Revision 2 does not provide a Westinghouse-specific methodology. On the contrary, it also applies to CE designs. Between Westinghouse and CE plants, this accounts for a majority of plants operating in the U.S. today.

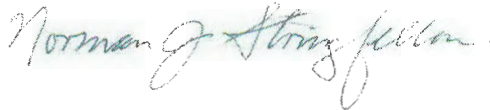
Second, the NRC's reference to the proprietary nature of the information in PWROG-16043-P, Revision 2 is misplaced. The NRC routinely reviews, on a fee-exempt basis, proprietary reports that address generic issues of importance to the NRC. *See, e.g.,* Letter from M. Wylie to J. Stringfellow (Aug. 18, 2014), *available in ADAMS at* Accession No. ML14190A943 (granting fee exemption for the proprietary report WCAP-17867-P, "Westinghouse SSPS Board Replacement Licensing Summary Report"); Letter from M. Wylie to A. Nowinowski (July 31, 2015), *available in ADAMS at* Accession No. ML15203A287 (granting fee exemption for the proprietary report WCAP-17888-NP, "Comprehensive Analysis and Test Program for GSI-191 Closure"). Moreover, the question of whether information submitted to the NRC is proprietary or not is irrelevant to the analysis under Section 170.11(a)(1)(ii). Once again, the question is whether the information will "assist the NRC in generic regulatory improvements or efforts," not whether or not the information is in the public domain, or owned by the party submitting it.

And finally, the methodology presented in PWROG-16043-P, Revision 2 is not an "alternate" method. It is an approach that directly addresses the technical issue of irradiation effects on grid crush strength that was the subject of Information Notice 2012-09.

For the foregoing reasons, Westinghouse respectfully requests that the NRC reverse the decision in Reference (1), determine that the review of PWROG-16043-P, Revision 2 be exempt from NRC review fees, and return the fees charged by the NRC to the subject project to the PWROG.

If you have any questions about this dispute, please contact me at (205) 992-7037 or Mr. James Andrachek at (412) 374-5018.

Sincerely yours,

A handwritten signature in blue ink that reads "Norman J Stringfellow".

Jack Stringfellow, Chief Operating Officer and Chairman
PWR Owners Group

cc: M. Wylie, NRC CFO
Brian Holian, Acting Director, Office of Nuclear Reactor Regulation
Mirela Gavrilas, Director, Division of Safety Systems

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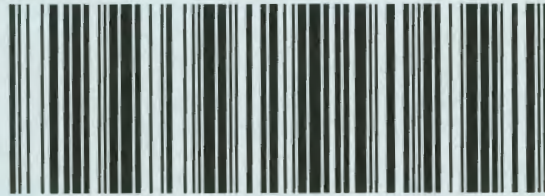
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