

JUL 12 1985

Docket No. 50-213

Connecticut Yankee Atomic Power Company
ATTN: Mr. John F. Opeka, Senior Vice President
Nuclear Engineering and Operations
Post Office Box 270
Hartford, Connecticut 06141-0270

Gentlemen:

The purpose of this letter and its enclosures is to address the fee requirements of 10 CFR 170 as they relate to actions pertaining to the fire protection regulations in 10 CFR 50 for applications filed before and after June 20, 1984, and to the shift staffing regulations in 10 CFR 50.54(m) for your Haddam Neck facility.

A. Fire Protection:

Based on a review of the fire protection requests filed by your Company for the subject facility and on information contained in Enclosure 1 to this letter, we find that a refund of \$1,200 is appropriate in connection with your March 19, 1981 application. Enclosure 2 is a list which reflects each request, any fees paid, fees due, and the Division of Licensing (DL) staff's fee determination and action on each.

For those portions of all applications on the enclosed list which were approved pursuant to 10 CFR 50.12, we have concluded that an exemption, pursuant to 10 CFR 170.11(b), from the fee requirements is authorized by law and such exemption is otherwise in the public interest and is hereby granted for them. If for some reason our list does not include all fire protection requests that your Company currently has on file with the DL staff for the Haddam Neck Plant, we will address the outstanding ones in a later letter if fees are required. If any of those on file as of June 19, 1984, are approved totally pursuant to 10 CFR 50.12, they will be exempted from fees, but an additional letter will not be sent to you unless required otherwise (e.g., fees paid and refund has to be made).

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Fees for the review of fire protection applications as they relate to the Millstone Nuclear Power Station will be the subject of future correspondence if additional fees are due or a refund is in order.

B. Shift Staffing Requirements:

Based on the information contained in Enclosure 3 to this letter, it has been determined that the previously requested Class II fee of \$1,200 is still appropriate for that portion of your October 24, 1983 application on shift staffing requirements that was approved January 15, 1985. If the final review of that portion of your October 24, 1983 application on use of an on-shift Senior Reactor Operator to fill the position of the Shift Technical Advisor reveals that the Class II fee is not appropriate, you will be notified and any necessary adjustments will be made. Enclosure 3 to this letter contains information in support of the Class II fee for the approved portion of your October 24 application and also serves as a response to your letter dated February 6, 1984.

Since in one instance a refund of \$1,200 is due your Company on the March 19, 1981 application and in another, \$1,200 is due the NRC for your October 24, 1983 application, we are applying the \$1,200 due your Company to your application of October 24, 1983. If this transaction does not meet your approval, or if there are questions regarding fees, please contact us (301) 492-7225.

Sincerely,

Original Signed by

Wm. O. Miller

William O. Miller, Chief
License Fee Management Branch
Office of Administration

Enclosures:

1. Fire Protection Fee Discussion
2. List of Applications and Fees
3. Discussion on Fees for 10/24/83 Application

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PDR

LPDR

RMDiggs

CJamerson, ORB-5

FAkstulewicz, ORB-5

LFMB Pending File

LFMB Reactor File

LFMB R/F

OFFICE	LFMB:ADM	LFMB:ADM	DL:ORB-5	LFMB:ADM		
SURNAME	RMDiggs:JP	CJHamerson	FAkstulewicz	WOMiller		
DATE	7/3/85	7/8/85	7/8/85	7/12/85		

Enclosure 1

Fire Protection Fee Discussion

On February 17, 1981, 10 CFR 50.48 and Appendix R, which added fire protection requirements for operating nuclear power plants, became effective. Prior to that date, fees were exempted for the review and approval of fire protection actions based on Branch Technical Position BTP APCSB 9.5-1 and its Appendix A. Since the February 1981 amendment of 10 CFR 50, we have had a number of requests filed by licensees for their plants. These requests consist of exemptions from schedular and other requirements, and other reviews (e.g., alternate safe shutdown capability).

It is NRC policy to exempt from fees all of the fire protection exemptions requested prior to June 20, 1984, which are granted pursuant to 10 CFR 50.12 by the NRC unless a license amendment or other approval is also required. On this basis, fees have not been requested for any of these types of exemptions. Fees will be charged for all other approvals and denials relating to fire protection. This means that the review and approval of the alternate safe shutdown capability and any reviews which result in a denial of a request which is filed between February 1981 and June 19, 1984, for your facility are subject to fees pursuant to 10 CFR 170.22 of the March 23, 1978 regulations. A Division of Licensing (DL) letter dated November 24, 1980, informed all reactor licensees with plants licensed prior to January 1, 1979, that fees were required for requests for Commission action resulting from the fire protection rule.

Fees for any future approvals by the DL staff on pending applications which were on file with the NRC as of June 19, 1984 by your Company will be in accordance with the position set forth in this document and its letter of transmittal. Fees for those fire protection applications filed on or after June 20, 1984, will be in accordance with the revised 10 CFR 170 which became effective on June 20, 1984. As you are aware, the revised rule eliminated the fee Classes (I through VI) and requires licensees to remit an application fee of \$150 with each application for license amendment, relief and exemption from the requirements of certain regulations (even those requested and issued pursuant to 10 CFR 50.12), and other approvals. Thereafter, at six-month intervals, the NRC will bill the licensee for the review of the application until it is completed. Under the revised rule, the fees for license amendments, exemptions and other approvals are based on the full cost (professional staff hours and contractual services) expended for the review. However, the maximum which can be charged for an application is the amount in the rule in effect at the time the amendment or other approval action is issued. The amount is currently \$164,600 (10 CFR 170.21.A) for power reactor cases. Credit for the non-refundable \$150 application fee (see Footnote 2 of 170.21) will be given at the time the first bill is sent to the licensee.

Enclosure 2

List of Applications and Fees

Haddam Neck Plant

Docket No. 50-213

<u>Application Date</u>	<u>Fees Paid</u>	<u>Fees Applicable</u>	<u>UNRR's Fee Determination & Action</u>
3/19/81 as supplemented			
1. Exemption from III.0, oil collection system	\$4,000*	none	Exempt-issued pursuant to 10 CFR 50.12 on 11/11/81
2. Scheduler exemption from requirements of 10 CFR 50.48	\$1,200*	none	Exempt-issued pursuant to 10 CFR 50.12 on 05/10/82
3. Alternate Safe Shutdown capability	none	\$4,000	Single safety issue for alternate safe shutdown approved on 11/14/84
4. Other exemption requests	none	none	Exempt-issued pursuant to 50.12 on 11/14/84

FEES APPLICABLE.....\$5,200

FEES PAID..... 4,000

REFUND DUE.....\$1,200

*Remitted by letter dated May 11, 1981.

ENCLOSURE 3

FEES FOR OCTOBER 24, 1983 APPLICATION

DOCKET 50-213

By letter dated January 5, 1984, a Class II fee (\$1,200) was requested for an application dated October 24, 1983, on shift staffing requirements. In a letter dated February 6, 1984, Connecticut Yankee maintained that the application was exempt from the fee requirements of 10 CFR 170.22 of the March 23, 1978 regulations because:

1. Against their recommendations, the NRC concluded that the new staffing requirements must be contained in both 10 CFR and in the Technical Specifications. Thus, the need to make the Technical Specifications consistent with 10 CFR 50.54(m) can be interpreted as being for no reason other than "the convenience of the Commission."
2. In their discussions with the staff, they were led to believe that the required changes would be exempt from Part 170 fees, and
3. Changes to the Technical Specifications required by Generic Letter 83-43 on 10 CFR 50.72 and 50.73 were specifically exempted from fees; the underlying principle for this interpretation is identical in both cases.

While we appreciate and do take into consideration licensees' concerns, the second sentence of Footnote 2 in 10 CFR 170.22 of the March 23, 1978 regulations leaves it to the NRC's discretion to exempt or not to exempt an application from fees. This sentence states, in part, that "Class I, II or III amendments which result from a written Commission request for the application may (emphasis added) be exempt from fees..." Over the years, the NRC has granted a number of exemptions from fees for applications. The revised rule that became effective on June 20, 1984, no longer contains a similar footnote because it was repetitious to the exemption provisions provided for in 10 CFR 170.11(b)(1). Exemptions that the NRC determines to be justified will be reviewed under Section 170.11(b) and will continue to be granted in writing when deemed appropriate.

Fees for responses to Generic Letter 83-43 dated December 19, 1983, were not charged because when the regulations were issued they stated that requirements of 10 CFR 50.73 replace all existing requirements for licensees to report "Reportable Occurrences" as defined in individual plant Technical Specifications. The applications such as yours of October 24, 1983, requested Technical Specification changes to upgrade the Technical Specifications to meet or satisfy the requirements of 10 CFR 50.54(m)(2) and/or to request deviations from the requirements such as dual roles of SRO also serving as Shift Technical Advisor. The review of these and other related Technical Specification changes is to assure that the licensee is in compliance with the upgraded shift manning requirements in Section 50.54(m). Such review is not for NRC convenience or for clarification of the license or Technical Specification. Consequently, the previously requested Class II fee is appropriate for the October 24 application.