

AUG 6 1985

Docket No. 50-461

Illinois Power Company
ATTN: Mr. Frank A. Spangenberg
Director - Nuclear Licensing
and Configuration
P.O. Box 678
Clinton, Illinois 61727

Dear Mr. Spangenberg:

By your letter dated March 22, 1985, you paid \$2,754,095 for Bill No. D0162 which was the fee for the review of the application for operating license for Clinton Unit No. 1. In addition, you requested supporting documentation for the bill.

We are enclosing the supporting documentation you requested; however, we wish to point out that our internal verification procedure indicates that certain contractual costs were not included in Bill No. D0162 for Clinton No. 1 or in Bill No. A0178 (dated April 9, 1982) for the indefinitely postponed Clinton Unit No. 2. These costs are associated with FINs A1301, A0422, A1308, A3389, A2218, and B5190. At such time as this matter is resolved, we will contact you and issue another bill if warranted.

Your letter stated that the NRC made retroactive application of the June 20, 1984, revised fee schedule in billing for the review services. The NRC's position on when a fee is fixed has not changed. Thus, for operating license applications filed before June 20, 1984, the requirements for applicability of the June 20, 1984 schedule remains the same. Just as with the 1978 fee schedule, the fee due is that fee in the schedule legally in effect in Part 170 at the time the full fee becomes payable. In the Statement of Considerations to the 1978 rule, the Commission made its position clear as to the fee due with the statement, "In the case of Part 50 construction permits, manufacturing licenses and operating licenses, where the permit or license review is completed after the effective date of this amendment to Part 170, the revised schedule shall apply." The Court approved the 1978 rule in Mississippi Power and Light v. U.S. Nuclear Regulatory Commission. The position was ratified again in New England Power v. U.S. Nuclear Regulatory Commission where the Court allowed a new rule charging a fee for withdrawn applications to be applied to applications withdrawn after the effective date of the rule, regardless of when the application was filed. Thus, for both license fees and fees for withdrawn applications, the controlling cases

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establish that the fee to be charged is the fee in the rule in effect at the time the license is issued or the application is withdrawn, postponed, suspended, etc. The right of the Government to collect the full fee and the obligation of the applicant to pay are finally fixed at that time and not before.

If you wish to meet with the License Fee Management Branch after you have reviewed the enclosed documentation or if you have questions, please contact me. Enclosed for information purposes is a copy of NRC Procedures For Extending Payment Dates of License Fee Billings. We regret the delay in responding to your letter.

Sincerely,

Original Signed by
Wm. O. Miller

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

Enclosures:

1. Supporting Documentation
2. Procedures

DISTRIBUTION w/o encls:

PGNorry, ADM
MSpringer, ADM
LSolander, NRR
JBlaha, IE
RBrown, NMSS
ANewsom, ACRS
RFonner, ELD
RSmith, ELD
RRakowski, RM/A
MRodriguez, RM/A

~~PUR~~

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Actual Manpower File - w/encls.

BSiegel, LB-2

EHylton, LB-2

RMDiggs

CJHolloway

LFMB Reactor File

LFMB R/F

Regulatory Docket File

OFFICE	LFMB:ADM	LFMB:ADM	ELD <i>fms</i>	LFMB:ADM <i>WOM</i>		
SURNAME	RMDiggs:jp	CJHolloway	RSmith	WOMiller		
DATE	8/1/85	8/1/85	8/5/85	8/5/85		