

AUG 30 1985

Docket No. 50-409

Dairyland Power Cooperative
ATTN: Mr. James W. Taylor
General Manager

P.O. Box 817
2615 East Avenue South
La Crosse, Wisconsin 54601

Gentlemen:

By letter dated September 7, 1984, you provided your bases for not remitting the Class II fee (\$1,200) requested in our letter dated August 16, 1984, for your application dated April 4, 1983. This application proposed certain Technical Specification (TS) changes relating to reporting requirements and overtime restrictions for the La Crosse Boiling Water Reactor. Your bases are:

1. Dairylea Power Cooperative (DPC) is already committed to reporting primary relief valves and restricting overtime since (a) DPC previously committed to report safety valve operations and failures in a letter dated September 3, 1980, (b) the DPC procedure on restricting overtime was first determined adequate in NRC letter dated July 27, 1982, and changes to DPC's overtime restrictions were reported by letter dated March 25, 1982, and revised by letter dated June 9, 1982, and (c) the April 4, 1983 application did not propose any new requirements on safety valve operations or overtime.
2. Since the April 4 application was submitted at the request of the NRC and merely requested that actions that DPC had previously committed to and had implemented be added to the TS, the criteria for fee exemption were met. Therefore, the criteria of 10 CFR 170.22, Footnote 2, that the change results from an NRC request, does not involve a significant hazards consideration, has minor safety significance and is being requested for the convenience of the Commission were all met.

Following the accident at Three Mile Island, Unit 2, the NRC staff developed NUREG-0660, "NRC Action Plan Developed as a Result of the TMI-2 Accident," to provide a comprehensive and integrated plan to improve safety at nuclear power reactors. Specific NUREG-0660 items that were approved by the Commission for implementation were issued in NUREG-0737.

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"Clarification of TMI Action Plan Requirements." NUREG-0737 specified that amended Technical Specifications would be required in order to implement several of the items. Subsequently, on June 15, 1982, the NRC staff issued GL No. 82-12, which contained a revised version of the Commission's Policy Statement on nuclear power plant staff working hours. Therein, licensees were requested to revise the administrative section of the Technical Specifications to adhere to the policy statement guidelines. The objective of these controls is to assure that, to the extent practicable, personnel are not assigned to shift duties while in a fatigued condition that could significantly reduce their mental alertness or their decision making capability. On January 10, 1983, the NRC issued Generic Letter (GL) No. 83-02, "NUREG-0737 Technical Specifications," requesting all boiling water reactor licensees to (a) review their Technical Specifications against the G.L. No. 83-02 guidance and (b) submit Technical Specifications for those items that deviated from this guidance or where no TS existed.

Subsequently, on April 4, 1983, DPC submitted proposed Technical Specification changes for two items. The submitted changes were responsive to TMI Action Plan Item I.A.1.3.1 ("Overtime Limits") and II.K.3.3 ("Reporting Safety Valve and Relief Valve Failure and Challenges"). Your April 4 letter states that "the proposed changes incorporate the applicable specifications which have not been previously proposed and/or approved."

On December 19, 1983, the NRC issued Generic Letter No. 83-43 ("Reporting Requirements of 10 CFR Part 50, Section 50.72 and 50.73, and Standard Technical Specifications"). This letter revised the immediate notification requirements for operating power reactors and provided a revised Licensee Event Report System. The DL staff has informed us that Generic Letter No. 83-43 negated the reporting requirements relating to safety and relief valve failures except for those relating to "indicated operations" of primary system safety valves for pressure relief purposes.

By letter dated January 1, 1985, the DL staff notified DPC of their approval of the April 4 application and issued Amendment No. 38 to Provisional Operating License No. DPR-45.

When applications for license amendments such as those relating to the NUREG-0737 items are requested by the NRC for the purpose of enhancing the safe operation of a nuclear facility, to correct a problem or potential problem relating to plant operation and/or warrant specific inclusion in the TS, they are not exempt from the fee requirements under Footnote 2 of 10 CFR 170.22 of the March 23, 1978 regulations because they are not requested for NRC convenience. For example, the requests for restricting overtime were requested in order to prevent situations where fatigue could reduce the ability of operating personnel to keep the reactor in a safe condition.

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Although DPC had committed in its letter dated September 3, 1980, to promptly report all future indicated operations of primary system safety valves for pressure relief, and the requirements of overtime restrictions were found to be adequate during an inspection of your facility between December 22, 1981, and March 31, 1982, and were reported to the NRC on March 25, 1982, these requirements were not included in the TS. The NRC had evaluated the need for inclusion of these requirements in the TS and subsequently issued Generic Letter No. 83-02 to licensees requesting all licensees to incorporate these requirements into their TS if they were not already included. These requests for license amendments are no different from other requests made by the NRC from time to time in its role of protecting the health and safety of the public and are subject to the fee provisions of 10 CFR 170. Therefore, the previously requested fee of \$1,200 is appropriate for your April 4 application. Consequently, DPC is requested to remit the sum of \$1,200 to this office.

Sincerely,

Original Signed by

Wm. O. Miller

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

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