

FOR IMMEDIATE RELEASE – August 28, 2014
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News Release 14-22
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Energy Northwest garners over \$23.5M for ratepayers in settlement with Department of Energy

RICHLAND, Wash. – The Department of Energy settled today to provide Energy Northwest \$23,575,043 million in damages for the construction and licensing of a used fuel storage area at Columbia Generating Station. This final settlement adds nearly \$4.3 million to the previous \$19.3 million provided by a court ruling in March.

The court's March decision came nearly eight years after the court first determined that DOE was in breach of contract for failure to accept Columbia's used nuclear fuel.

"This is another big win for Northwest ratepayers," said Mark Reddemann, Energy Northwest CEO. "We can safely store the fuel indefinitely on site – it takes up little space. That doesn't lessen the federal government's legal obligation to nationally develop and manage a used fuel process."

Though Energy Northwest and the nuclear energy industry continue to advocate completion and use of a national repository, Columbia's used fuel can continue to be safely and securely kept at the nuclear station's above-ground dry storage area.

The settlement also provides for an annual claims process with DOE, which allows Energy Northwest to recover damages for DOE's breach through 2016 without having to expend costs for litigation.

"This has been a long journey for our legal team," said Bob Dutton, Energy Northwest's general counsel. "The federal decision in March ultimately led to approval of the then-pending settlement by our executive board, and more than \$1.2 million in litigation cost savings."

Background

Energy Northwest started construction on its used fuel storage area in 2001 when it became clear that the Energy Department would not be transferring used fuel from the nation's 104 nuclear power facilities to a federal repository. The Energy Department was legally obligated to start the transfers in 1998.

Energy Northwest filed an initial lawsuit in January 2004 and sought \$56,859,345 in damages at trial. A 2006 ruling by the court determined that DOE was in breach of contract with Energy Northwest for the department's failure to begin accepting used nuclear fuel from the nuclear utility industry in January 1998. That is the date when a national repository was to be made available by DOE to receive used fuel from more than 100 U.S. nuclear energy facilities.

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The case was tried in Washington D.C. in February, 2009. The U.S. Court of Federal Claims awarded Energy Northwest full damages in February 2010. The Department of Energy appealed a portion of the claim.

On April 7, 2011, the U.S. Circuit Court of Appeals for the Federal Circuit ruled that Energy Northwest was rightfully granted \$2.9 million in overhead costs but the federal government was not required to pay \$6 million in interest charges. The Appeals Court remanded the issue on payment for plant modifications for further hearing. Energy Northwest, without waiving its rights on the merits of the claim, made the business decision to forego further trial on the nuclear station modifications portion of the claim in order to expedite payment of the judgment.

In July, 2011, a federal court ruled to award Energy Northwest more than \$48.7 million in damages for the construction and licensing of a used fuel storage area at Columbia Generating Station. The ruling came nearly five years after the court determined the U.S. Department of Energy was in breach of contract for its failure to accept the utility's used nuclear fuel.

Energy Northwest filed a second action in July 2011 for the government's continuing breach of contract to accept the utility's used nuclear fuel for the time frame September 1, 2006, and June 30, 2012, seeking to recover a total of \$24.9 million.

About Energy Northwest

Energy Northwest develops, owns and operates a diverse mix of electricity generating resources, including hydro, solar and wind projects - and the Northwest's only nuclear power plant. These projects provide enough reliable, affordable and environmentally responsible energy to power more than a million Washington homes each year, and that carbon-free electricity is provided at the cost of generation. As a Washington state joint operating agency, Energy Northwest comprises 27 public power member utilities from across the state serving more than 1.5 million ratepayers. The agency continually explores new generation projects to meet its members' needs. Energy Northwest – www.energy-northwest.com.



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