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Court awards Energy Northwest costs of used nuclear fuel storage

RICHLAND, Wash. – A federal court ruled this week to award Energy Northwest \$19.3 million in damages for the construction and licensing of a used fuel storage area at Columbia Generating Station. The ruling came nearly eight 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.

“This is another big victory for the region and the ratepayers of the Northwest,” said Mark Reddemann, Energy Northwest CEO. “However, this judgment does not resolve the issue of long-term storage of used nuclear fuel, nor does it lessen the legal obligation of the federal government to develop and manage that 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 for decades at the nuclear station's above-ground dry storage area.

According to court documents, Energy Northwest represents one of more than 60 such cases filed by nuclear utilities.

Background

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.

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.

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Energy Northwest awarded judgment

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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. The recent court award of \$19.3 million is only a portion of this damages claim, the remainder of which is anticipated to be determined at trial at a later date.

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 28 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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