

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2000-366-A

SC PUBLIC SERVICE
COMMISSION

2009 FEB 26 PM 4: 23

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IN RE: Application of Chem-Nuclear Systems,)
LLC, a subsidiary of Duratek, Inc., for)
Adjustment in the Levels of Allowable)
Costs and for Identification of Allowable)
Costs)
_____)

AMENDED
APPLICATION
(for Fiscal Year 2008-2009)

Pursuant to the provisions of S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2008), Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc., (“Chem-Nuclear” or the “Company”) submits this Amended Application for adjustment in the levels of certain “allowable costs” and for the identification of certain “allowable costs” for the operation of its regional low-level radioactive waste disposal facility located in the vicinity of Barnwell, South Carolina. In support of the relief which it requests in this Amended Application, Chem-Nuclear would respectfully show unto this honorable Commission:

1. On June 6, 2000, the Governor of the State of South Carolina signed the Atlantic Interstate Low-Level Radioactive Waste Compact Implementation Act (the “Act”). The Act is codified as S.C. Code Ann. §§ 48-46-10, *et seq.* (1976), as amended.

2. Section 48-46-40(B)(1) of the Act authorizes and directs the Commission “to identify allowable costs for operating a regional low-level radioactive waste disposal facility in South Carolina.” Section 48-46-30(1) defines “allowable costs” as “costs to a disposal site operator of operating a regional disposal facility.” Under that definition, such costs “are limited to costs determined by standard accounting practices and regulatory findings to be associated with facility operations.”

3. Section 48-46-40(B)(3) provides that "allowable costs" expressly include the costs of certain specifically identified activities necessary in the operation of a low-level radioactive waste disposal facility. That Section also provides that "allowable costs" include "any other costs directly associated with disposal operations determined by [the Commission] to be allowable."

4. Chem-Nuclear operates a regional low-level radioactive waste disposal facility (the "Facility") in Barnwell County, South Carolina. Consequently, the Commission has the authority to identify the "allowable costs" for the Company's operation of the Facility.

5. The Facility is located on a tract of land consisting of approximately 235 acres which the State of South Carolina owns and which the Company leases from the South Carolina Budget and Control Board (the "Board"). The 235-acre site includes areas for various operations, including completed disposal trenches, potential trench areas, ancillary facilities, water management areas and buffer zone areas.

6. The Company conducts its operations at the Facility under South Carolina Radioactive Material License 097 ("License") by which the South Carolina Department of Health and Environmental Control ("DHEC") has authorized receipt, storage and disposal of low-level radioactive waste at the Facility. The License contains numerous technical conditions and specifications for management of waste at the Facility. In 2000, the Company submitted an application to DHEC for renewal of the License. DHEC's approval of the Company's application was affirmed by the South Carolina Administrative Law Court and the matter is currently pending appellate review. On December 12, 2008, the Company submitted a second application for renewal of the License to assure continued operations of the Facility beyond the expiration date of the previous renewal. In addition to the requirements of the License, the Facility is subject to DHEC's regulations in 24A S.C. Code Reg. 61-63 (Title A) (Supp. 2008).

DHEC's regulations are compatible with the provisions of "Licensing Requirements for Land Disposal of Radioactive Wastes," which the United States Nuclear Regulatory Commission ("NRC") originally promulgated in 10 CFR Part 61, and which DHEC has adopted most of those provisions and enforces them through its own regulations under an agreement with the NRC.

7. On June 17, 2008, the Commission issued its Order No. 2008-447 in this Docket. In that Order, the Commission identified certain categories of "allowable costs" and identified levels of "allowable costs" within those categories. Order No. 2008-447 approved certain rates for variable allowable costs and identified the sum of \$7,944,000 for total fixed allowable costs for the 12 months ending June 30, 2008. The Order also approved irregular costs of \$315,000 as allowable costs.

8. S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2008) provides that an operator of a low-level radioactive waste disposal site may apply for adjustments in the levels of "allowable costs" that the Commission has identified for the previous fiscal year and for identification of costs that the Commission has not previously identified as "allowable costs." Upon approval of such application, Section 48-46-40(B)(4) requires the Commission to authorize the site operator to adjust its "allowable costs" for the current fiscal year to compensate the site operator for revenues lost during the previous fiscal year.

9. On September 30, 2008, the Company filed an Application (the "Original Application") seeking certain relief in the nature of the Commission's recognition of levels of "allowable costs" for the Company's fixed costs for Fiscal Year 2007-2008, the identification of the levels of irregular costs for Fiscal Year 2007-2008, and the identification as "allowable costs" and approval of total fixed and irregular costs and of variable cost rates for Fiscal Year 2008-2009. By this Amended Application, the Company proposes certain revisions in the figures contained in the Original Application and its exhibits to reflect the Company's

reconciliation of certain issues with the Office of Regulatory Staff. The Company's testimony in this proceeding will explain further the basis for the revisions.

10. For the purposes of this Amended Application and its Exhibits, the Company has used the cost categories that the Commission approved in Order No. 2008-447, which were based on the recommendations of the parties to the Collaborative Review of the Company's Operations and Efficiency Plan ("OEP").

11. During the Company's recently concluded Fiscal Year 2007-2008 (*i.e.*, the twelve months ending June 30, 2008), the Company's actual "allowable costs" in those categories that the Commission identified in Order No. 2008-447 for fixed costs were \$7,452,850. By this Amended Application, the Company requests the Commission to approve the levels of fixed allowable costs for Fiscal Year 2007-2008 to permit the Company to be compensated for those allowable fixed cost components identified in Order No. 2008-447, as authorized by Section 48-46-40(B)(4). Consequently, the Company proposes no adjustment for allowable fixed costs in this Amended Application.

12. With respect to those allowable costs which Order No. 2008-447 characterized as irregular costs, the Company incurred total irregular costs for Fiscal Year 2007-2008 of \$644,842.60. The irregular costs that the Company actually experienced exceeded the level of total allowable irregular costs of \$315,000 identified in Order No. 2008-447. Consequently, the Company requests that the Commission identify \$329,842.60 as the adjustment for allowable irregular costs for Fiscal Year 2007-2008.

13. With respect to the allowable costs that Order No. 2008-447 characterized as variable labor and non-labor costs, which are dependent upon volumes of waste buried, the Company incurred actual costs in the category of variable labor and non-labor costs in Fiscal Year 2007-2008 which are \$107,848.63 more than the costs identified in Order No. 2008-447,

using the variable cost rates identified by the Commission in that Order for categories of waste and using the volumes of waste buried in Fiscal Year 2007-2008. Therefore, the Company requests an adjustment of \$107,848.63 for variable labor and non-labor costs in this Amended Application.

14. With respect to vault costs, Order No. 2008-447 established certain variable cost rates for each type of waste disposed at the Facility. By applying those rates to the volumes of each type of waste actually buried in Fiscal Year 2007-2008, the Company calculated a total cost for routine disposal vaults of \$1,777,610.84. Based on the Company's actual experience in Fiscal Year 2007-2008, the Company incurred a cost of \$1,975,945.15 for routine disposal vaults. Therefore, the Company requests an adjustment of \$198,334.31 for vault costs in this Amended Application.

15. The Company has attached to this Amended Application three (3) Exhibits pertaining to the adjustments and identification of the three (3) categories of "allowable costs" for its disposal operations.

16. Amended Exhibit A to this Amended Application describes in detail the Company's proposed adjustments for the recovery of its actually incurred costs for fixed, variable and irregular costs to reflect the differences between the level of "allowable costs" identified in Order No. 2008-447 and the level of the Company's actually incurred costs in Fiscal Year 2007-2008. Amended Exhibit A also provides the rates for variable costs which were contained in Order No. 2008-447.

17. Amended Exhibit B describes the actual irregular costs which the Company incurred in Fiscal Year 2007-2008, organized by project number.

18. Amended Exhibit C depicts the total fixed costs, irregular costs and variable cost rates that the Company proposes for identification and approval for Fiscal Year 2008-2009.

19. For Fiscal Year 2008-2009, the Company requests identification as "allowable costs" a total of \$2,561,000 as allowable fixed costs, as depicted in Amended Exhibit C. Amended Exhibit C also identifies variable material cost rates and variable waste dependent labor rates for Fiscal Year 2008-2009. Irregular costs for Fiscal Year 2007-2008 anticipated at the time of this Amended Application are \$389,000, as specified in Amended Exhibit C. The costs and amounts in Amended Exhibits A and C are consistent with the description of "allowable costs" in Section 48-46-40(B)(3), and they have been determined by standard accounting practices and are consistent with the recommendations of the Collaborative Review of the OEP as the Commission approved in Order No. 2004-349 in this Docket.

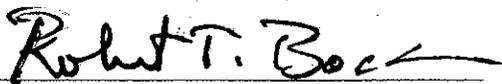
WHEREFORE, Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc., respectfully prays unto this honorable Commission:

1. To review the Company's Amended Application and issue its Order, under S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2008), recognizing the levels of "allowable costs" as depicted in Amended Exhibit A for Fiscal Year 2007-2008, and identifying the levels of irregular costs in Amended Exhibit B for Fiscal Year 2007-2008, and identifying as "allowable costs" those costs depicted in Amended Exhibit C for Fiscal Year 2008-2009.

2. For such other and further relief as is just and proper.

Respectfully submitted,

Robert T. Bockman
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By: 

Attorneys for Chem-Nuclear Systems, LLC

February 26, 2008
Columbia, South Carolina

**AMENDED EXHIBIT A:
FISCAL YEAR 2007-2008 COSTS**

Fixed Costs: No Adjustment Proposed

Fixed costs, subject to a 29% operating margin, were incurred in fiscal year 2007-2008 in the general categories of labor-related costs, non-labor costs, costs allocated from corporate functions, equipment leases and support, depreciation and insurance. Fixed costs, **not** subject to a 29% operating margin, were incurred in fiscal year 2007-2008 in the general categories of employee retention compensation, legal (license appeal) and intangible asset amortization. The following table compares the actual costs incurred to the costs identified as allowable in Commission Order No. 2008-447:

	Commission Order No. 2008-447	Actual Costs Incurred in FY 2007-2008	Adjustment Proposed
Labor and Fringe	\$2,900,000	\$2,452,543	
Non-Labor	\$1,000,000	\$1,087,714	
Corporate Allocation (G&A)	\$1,305,000	\$1,246,765	
Equipment leases and support	\$654,000	\$696,642	
Depreciation	\$230,000	\$188,000	
Insurance	\$680,000	\$632,003	
Subtotal (Fixed Cost subject to 29% margin)	\$6,769,000	\$6,303,667	
Employee retention compensation	\$500,000	\$461,905	
Legal (license appeal)	\$50,000	\$62,361	
Intangible asset amortization	\$625,000	\$624,917	
Subtotal (Fixed Cost not subject to 29% margin)	\$1,175,000	\$1,149,183	
Total Fixed Costs	\$7,944,000	\$7,452,850	(\$491,150)

The actual Fixed Costs incurred during fiscal year 2007-2008 were \$7,452,850. This amount is \$491,150 less than the amount identified in Order Number 2008-447. Therefore, no adjustment is requested in this category of costs.

Variable Costs:

Variable Labor and Non-Labor Costs

\$107,848.63 Adjustment Proposed

Commission Order No. 2008-447 identified the following categories of rates for projecting Variable Labor and Non-Labor costs: vault purchase and inspection (per vault), ABC waste disposal (per shipment), slit trench operations (per slit trench offload), customer assistance (per shipment), and trench records (per container).

The following table illustrates the Variable Labor and Non-Labor costs that would be calculated using the Variable Labor and Non-Labor rates identified in Order No. 2008-447 and the number of units in each category.

	Units	Variable Cost Rate in Order No. 2008-447	Calculated Cost
Vault Purchase & Inspection (per vault)	311	\$116.06	\$36,094.66
ABC Waste Disposal (per shipment) (total shipments, less slit trench shipments, less irregular project shipments)	262	\$1,128.34	\$295,625.08
Slit Trench Operations (per slit trench offload)	73	\$8,412.28	\$614,096.44
Customer Assistance (per shipment)	335	\$295.26	\$98,912.10
Trench records (per container)	587	\$73.81	\$43,326.47
Total Projected Variable Labor and Non-labor Cost			\$1,088,054.75

The actual Variable Labor and Non-Labor costs experienced in the disposal of waste in fiscal year 2007-2008 resulted in a Total Variable Labor and Non-Labor Cost of **\$1,195,903.38**. This amount is **\$107,848.63** more than the amount that would have been anticipated based on rates provided in Commission Order 2008-447. Therefore, Chem-Nuclear requests an adjustment of **\$107,848.63** in this category of costs.

Vault Costs

\$198,334.31 Adjustment Proposed

The following table illustrates the vault costs that would be calculated using the Variable Cost rates identified in Commission Order No. 2008-447 and the volumes of waste received in each respective category.

	Volume Buried (cubic feet)	Variable Cost Rate in Order No. 2008-447	Calculated Cost
Class A waste	9,738.61	\$42.85	\$417,299.44
Class B waste	8,854.36	\$43.05	\$381,180.20
Class C waste	10,599.86	\$43.09	\$456,747.97
Slit Trench waste	3,761.40	\$138.88	\$522,383.23
Irregular Components (in vaults as an irregular cost)		N/A	N/A
Irregular Components (not in vaults)		N/A	N/A
Total Vault Cost			\$1,777,610.84
Total Volume	32,954.23		

The total cost incurred for routine disposal vaults used during fiscal year 2007-2008 was \$1,975,945.15. Therefore, Chem-Nuclear requests \$198,334.31 adjustment in this category of cost.

Irregular Costs: \$329,842.60 Adjustment Proposed

The following table summarizes the Irregular costs incurred in fiscal year 2007-2008 organized by projects. Exhibit B provides additional descriptions of each of these irregular projects. The total costs incurred in fiscal year 2007-2008, as Irregular costs, were **\$644,842.60** compared to the amount identified in Commission Order No. 2008-447 of **\$315,000**. Chem-Nuclear therefore requests an adjustment of **\$329,842.60** increase in Irregular Costs.

Irregular Cost Item	Order No. 2008-447	Actual FY 07-08 Labor	Actual FY 07-08 Non-Labor	Total Cost FY 07-08
Various Trenches (design, construct, and backfill): Trench 86, Trench 97, Trench 98, Slit Trench 31, Slit Trench 32, Slit Trench 33, Slit Trench 34, slit Trench 35, and Slit Trench 36.	\$160,000	\$53,662.49	\$232,234.89	\$285,897.38
License Renewal and Appeal costs	\$10,000	\$3,802.40	\$1,578.40	\$5,380.80
Decontamination and Corrective Actions	\$10,000	\$8,569.12	\$62,112.43	\$70,681.55
Site Engineering and Drawing Updates	\$25,000	\$15,464.82	\$9,051.00	\$24,515.82
Site Assessments	\$80,000	\$92,620.64	\$63,818.96	\$156,439.60
Irregular Component Disposal:	\$10,000	(\$36.40)	\$3,328.16	\$3,291.76
Other Irregular costs (Waste Tracking Special Requests, Database Software, B&CB staff support, and site generated waste vaults)	\$20,000	\$5,593.52	\$62,553.64	\$68,147.16
Monitoring Well abandonment		\$3,803.12	\$490.06	\$4,293.18
Investigate Mary's Branch		\$24,383.43		\$24,383.43
Increased Security Controls		(\$38.25)	\$1,850.17	\$1,811.92
Total Irregular Costs	\$315,000	\$207,824.89	\$437,017.71	\$644,842.60

**AMENDED EXHIBIT B:
FISCAL YEAR 2007-2008 IRREGULAR COSTS
ORGANIZED BY PROJECT**

PROJECT NUMBERS	PROJECT NAME AND EXPLANATIONS
188701.8012 188701.8014 188701.8021 188701.8022 188701.8023 188701.8024 188701.8025 188701.8026 188701.8027	<p>Various Trench Construction and Backfill Operations (Labor \$53,662.49 and Non-labor \$232,234.89)</p> <p>Trench construction activities in fiscal year 2007-2008 included design, construction and backfill (including use of free flowing sand where applicable) in Trench 86, Trench 97, Trench 98, Slit Trench 31, Slit Trench 32, Slit Trench 33, Trench 34, Trench 35 and Slit Trench 36.</p>
952188.8001 952188.8002 188000.8010	<p>Appeal DHEC License, License Administration, and Alternate Trench Construction Design (Labor \$3,802.40 and Non-Labor \$1,578.40)</p> <p>Non-routine activities by licensing department and others related to the appeal process for the DHEC radioactive materials license renewal. Included here are costs for CNS labor. Legal expenses are included in fixed costs.</p>
188000.8005 188000.8006	<p>Decontamination and Corrective Actions (Labor \$8,569.12 and Non-labor \$62,112.43)</p> <p>Includes costs related to decontamination efforts and corrective actions required as a result of waste received for disposal. Included here are costs for replacement rigging equipment required to replace worn and damaged rigging used in waste offloads. During fiscal year 2007-2008, costs incurred in these projects, although irregular and non-recurring in nature, were within the scope of waste disposal operations work.</p>
188004.8001	<p>Site Engineering & Drawing Updates (Labor \$15,464.82 and Non-labor \$9,051.00)</p> <p>Labor and contractor costs for site engineering support and preparation and reproduction of site drawings. The engineering support and drawings were required for various analyses and reports submitted to SC DHEC. Included in this project in fiscal year 2007-2008 were trench construction procedure revisions and advance slit trench construction planning.</p>
952183.8001	<p>Site Assessments (Labor \$92,620.64 and Non-Labor \$63,818.96)</p> <p>Included here are costs associated with special projects related to site performance as directed by SC DHEC. During FY 2007-2008, SC DHEC directed additional sampling of private drinking water wells and analysis for radioactivity. Although the additional samples of over 80 water sources in the vicinity of the disposal site showed no impact from disposal site operations, this non-routine work was necessary to address concerns raised among members of the public by certain news media reports. Also included are costs for providing SC DHEC with requested data records and analysis including an historical compilation of borehole and well records and analyses of environmental data.</p>

188007.8001	Irregular Component Disposal (Labor: (\$36.40) and Non-labor \$3,328.16) Includes costs associated with preparation for potential disposal of items that involve unusual handling requirements and Registered Land Surveyor work related to potential disposal of steam generators in Trench 86.
952182.8002 952183.8002 952192.8002 188000.8011 188004.8002	Other Irregular Costs (Waste Tracking Special Requests, Repairs to the Environmental Laboratory, Waste Tracking Database Software, B&CB Staff Requests, Site generated waste disposal vaults) (Labor \$5,593.52 and Non-labor \$62,553.64) Included here are costs for specific special requests for waste disposal data from generators, regulators and others acting in official capacities. Costs for vaults for disposal of certain site generated waste when extra space in routine disposal vaults was not available are also included here
188000.8009	Monitoring Well Abandonment (Labor \$3,803.12 and Non labor \$490.06) Labor and non-labor costs associated with abandonment of four environmental monitoring wells.
952183.8003	Investigate Mary's Branch (Labor \$24,383.43 and Non-Labor \$0) Costs for non-routine activities as directed by SC DHEC for planning appropriate environmental measurements in Mary's Branch creek.
188008.8001	Increased Security Controls (Labor (\$38.25) and Non-labor \$1,850.17) Costs associated with personnel and physical security enhancements as directed by SC DHEC to implement increased controls over radioactive materials at the disposal site.

**AMENDED EXHIBIT C:
FISCAL YEAR 2008-2009 COSTS**

We propose the following amounts be identified as allowable costs for fiscal year 2008-2009:

FIXED COSTS	
Fixed Costs to which 29% operating margin is added	
Labor and Fringe and Non-Labor	\$1,000,000
Corporate Allocations (Management Fees/G&A)	\$500,000
Depreciation	\$188,000
Insurance	\$448,000
Equipment Leases and Support	\$400,000
Fixed Costs to which 29% operating margin is not added	
Legal Support (license appeal)	\$25,000
Total Fixed Costs	\$2,561,000
IRREGULAR COSTS	
Trench Construction	\$40,000
License Appeal	\$5,000
Site Engineering Drawing	\$3,000
Site Assessments	\$30,000
Miscellaneous	\$1,000
Increased Security Controls	\$10,000
Severance Pay	\$300,000
Total Irregular Costs	\$389,000
VARIABLE COSTS	
Variable Labor and Non-Labor Rates	
Vault Purchase and Inspection (per vault)	\$75.91
ABC Waste Disposal (per shipment)	\$1,818.55
Slit Trench Operations (per slit trench offload)	\$6,565.38
Customer Assistance (per shipment)	\$44.45
Trench Records (per container)	\$124.06
Variable Material Cost Rates (Vaults)	
Class A Waste (per cubic foot)	\$38.26
Class B Waste (per cubic foot)	\$39.65
Class C Waste (per cubic foot)	\$40.49
Slit Trench Waste (per cubic foot)	\$180.92

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_____)

**CERTIFICATE
OF SERVICE**

I, ElizaBeth A. Blich, do hereby certify that I have this date served one (1) copy of the Amended Application and Exhibits of Chem-Nuclear Systems, LLC for FY 2008-2009 upon the following parties of record by causing said copies to be deposited with the United States Postal Service, first class postage prepaid and properly affixed thereto, and addressed as follows:

The Honorable Henry Dargan McMaster
Attorney General
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February 26, 2009

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