In re: Application of Chem-Nuclear Systems, LLC, for Adjustment in Levels of Allowable Costs and for Identification of Allowable Costs (FY 2010-2011)

STATE OF SOUTH CAROLINA

BEFORE THE
(Caption of Case)
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2000 - 366 - A

(Please type or print)

Submitted by: Robert T. Bockman, Esquire
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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
☐ Electric	☐ Affidavit	☐ Letter	☐ Request
☐ Electric/Gas	☐ Agreement	☐ Memorandum	☐ Request for Certificatio
☐ Electric/Telecommunications	☐ Answer	☐ Motion	☐ Request for Investigatior
☐ Electric/Water	☐ Appellate Review	☐ Objection	☐ Resale Agreement
☐ Electric/Water/Telecom.	☒ Application	☐ Petition	☐ Resale Amendment
☐ Electric/Water/Sewer	☐ Brief	☐ Petition for Reconsideration	☐ Reservation Letter
☐ Gas	☐ Certificate	☐ Petition for Rulemaking	☐ Response
☐ Railroad	☐ Comments	☐ Petition for Rule to Show Cause	☐ Response to Discovery
☐ Sewer	☐ Complaint	☐ Petition to Intervene	☐ Return to Petition
☐ Telecommunications	☐ Consent Order	☐ Petition to Intervene Out of Time	☐ Stipulation

- [ ] Transportation
- [ ] Water
- [ ] Water/Sewer
- [x] Administrative Matter
- [ ] Other:

- [ ] Discovery
- [ ] Exhibit
- [ ] Expedited Consideration
- [ ] Interconnection Agreement
- [ ] Interconnection Amendment
- [ ] Late-Filed Exhibit

- [ ] Prefiled Testimony
- [ ] Promotion
- [ ] Proposed Order
- [ ] Protest
- [ ] Publisher's Affidavit
- [ ] Report

- [ ] Subpoena
- [ ] Tariff
- [ ] Other:

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September 30, 2010

Hand Delivered

Jocelyn Boyd, Esquire
Chief Clerk and Administrator
South Carolina Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211

Re: Application of Chem-Nuclear Systems, LLC (SCPSC Docket No. 2000-366-A) (Fiscal Year 2010-2011 Proceeding)

Dear Ms. Boyd:

Please find enclosed for filing the original of the 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 for Fiscal Year 2010-2011 ("Application"). We are filing the Application in accordance with S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2009) and the Commission's rules of practice and procedure.

As the Certificate of Service to the Application indicates, we have formally served a copy of the Application on those parties which S.C. Code Ann. § 48-46-40(B)(9) (Supp. 2009) designates as parties to this proceeding. By copy of this letter, we are providing a copy of the Application to the appropriate officials of the Atlantic Compact Commission and the South Carolina Department of Health and Environmental Control which Section 48-46-40(B)(9) designates as discretionary parties, and we are providing a copy to the Chief of Staff of the Office of Regulatory Staff.

Should you have any questions with respect to this filing, please do not hesitate to contact me.

Very truly yours,

Bob Bock

Robert T. Bockman

Enclosures
cc: The Honorable Henry Dargan McMaster (w/encl.)
The Honorable C. Earl Hunter (w/encl.)
Frank R. Ellerbe, III, Esquire (w/encl.)
Derrick K. McFarland (w/encl.)
Jeffrey M. Nelson, Esquire (w/encl.)
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BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

Docket No. 2000-366-A

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	)	**APPLICATION** (for Fiscal Year 2010-2011)

Pursuant to the provisions of S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2009), Chem-Nuclear Systems, LLC, a subsidiary of Duratek, Inc., ("Chem-Nuclear" or the "Company") submits this 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 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) of the Act 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 097") 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. License 097 contains numerous technical conditions and specifications for management of waste at the Facility. In addition to the requirements of License 097, the Facility is subject to DHEC's regulations in 24A S.C. Code Reg. 61-63 (Supp. 2009). 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 C.F.R. Part 61, and DHEC has adopted most of those provisions and enforces them through its own regulations under an agreement with the NRC.

7. On June 18, 2010, the Commission issued its Order No. 2010-435 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. 2010-435 approved certain rates for variable allowable costs and identified the sum of $2,632,663 for total fixed allowable costs for the 12 months ending June 30, 2010. The Order also approved irregular costs of $153,000 as allowable costs.

8. S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2009) 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. For the purposes of this Application and its Exhibits, the Company has used the cost categories that the Commission approved in Order No. 2010-435, which were based on the recommendations of the parties to the Collaborative Review of the Company's Operations and Efficiency Plan ("OEP").

10. During the Company's recently concluded Fiscal Year 2009-2010 (*i.e.*, the twelve months ending June 30, 2010), the Company's actual "allowable costs" in those categories that the Commission identified in Order No. 2010-435 for fixed costs were $2,718,948. By this Application, the Company requests the Commission to approve the levels of actual fixed allowable costs for Fiscal Year 2009-2010 to permit the Company to be compensated for those allowable fixed cost components identified in Order No. 2010-435, as authorized by Section 48-46-40(B)(4). Consequently, the Company proposes an adjustment of $86,285 for allowable fixed costs in this Application.

11. With respect to those allowable costs which Order No. 2010-435 characterized as irregular costs, the Company incurred total irregular costs for Fiscal Year 2009-2010 of $1,159,019. The Company requests the Commission to approve the level of actual irregular costs for Fiscal Year 2009-2010 for the allowable irregular cost categories identified in Order No. 2010-435. The adjustment which the Company proposes is $1,006,019.

12. With respect to the allowable costs that Order No. 2010-435 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 2009-2010 which are $42,305 less than the costs identified in Order No. 2010-435, 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 2009-2010. Therefore, the Company requests no adjustment for variable labor and non-labor costs in this Application.

13. With respect to vault costs, Order No. 2010-435 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 2009-2010, the Company had calculated a total cost for routine disposal vaults of $290,739. Based on the Company's actual experience in Fiscal Year 2009-2010, the Company incurred a cost of $319,670 for routine disposal vaults. Therefore, the Company requests an adjustment of $28,931 for vault costs in this Application.

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

15. Exhibit A to this 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. 2010-435

and the level of the Company's actually incurred costs in Fiscal Year 2009-2010. Exhibit A also provides the rates for variable costs which were contained in Order No. 2010-435.

16. Exhibit B describes the actual irregular costs which the Company incurred in Fiscal Year 2009-2010, organized by project number.

17. Exhibit C depicts the total fixed costs, irregular costs and variable cost rates that the Company proposes for identification and approval for Fiscal Year 2010-2011.

18. For Fiscal Year 2010-2011, the Company requests identification as "allowable costs" a total of $2,773,327 as allowable fixed costs, as depicted in Exhibit C. Exhibit C also identifies variable material cost rates and variable waste dependent labor rates for Fiscal Year 2010-2011. Irregular costs for Fiscal Year 2010-2011 anticipated at the time of this Application are $158,000, as specified in Exhibit C. The costs and amounts in 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.

19. As a part of this Application, the Company seeks the Commission's authorization to convert its accounting system from its current CostPoint accounting system to the Oracle Accounting System. The Commission approved the use of the CostPoint accounting system in Order No. 2004-349, dated July 23, 2004. The conversion to the Oracle Accounting System will enable the Company to standardize many of its accounting functions and facilitate the Company's accounting operations while maintaining a high level of accuracy and enabling the Office of Regulatory Staff to audit efficiently the Company's books and records in proceedings 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 Application and issue its Order, under S.C. Code Ann. § 48-46-40(B)(4) (Supp. 2009), recognizing the levels of "allowable costs" as depicted in Exhibit A for Fiscal Year 2009-2010, and identifying the levels of irregular costs in Exhibit B for Fiscal Year 2009-2010, and identifying as "allowable costs" those costs depicted in Exhibit C for Fiscal Year 2010-2011.

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

Respectfully submitted,

Robert T. Bockman
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

By: _____

Attorneys for Chem-Nuclear Systems, LLC

September 30, 2010

Columbia, South Carolina

EXHIBIT A:

FISCAL YEAR 2009-2010 COSTS

Fixed Costs: $86,285 Adjustment Proposed

Fixed costs, subject to a 29% operating margin, were incurred in fiscal year 2009-2010 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 2009-2010 in the category of legal support. The following table compares the actual costs incurred to the costs identified as allowable in Commission Order No. 2010-435:

	Commission Order No. 2010-435	**Actual Costs Incurred in FY 2009-2010**	**Adjustment Proposed**
Labor, Fringe and Non-labor	$1,318,581	$1,344,161	
Corporate Allocation (G&A)	$574,834	$549,390	
Equipment leases and support	$116,255	$133,506	
Depreciation	$71,475	$65,830	
Insurance	$384,518	$422,721	
Subtotal (Fixed Cost subject to 29% margin)	$2,465,663	$2,515,608	
Legal Support	$167,000	$203,340	
Subtotal (Fixed Cost **not** subject to 29% margin)	$167,000	$203,340	
Total Fixed Costs	**$2,632,663**	**$2,718,948**	**$86,285**

The actual Fixed Costs incurred during fiscal year 2009-2010 were **$2,718,948**. This amount is **$86,285** more than the amount identified in Order Number 2010-435. Therefore, an adjustment of **$86,285** is requested in this category of costs.

Variable Costs:

Variable Labor and Non-Labor Costs

No Adjustment Proposed

Commission Order No. 2010-435 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. 2010-435 and the number of units in each category.

	Units	**Variable Cost Rate in Order No. 2010-435**	**Calculated Cost**
Vault Purchase & Inspection (per vault)	53	$77.43	$4,104
ABC Waste Disposal (per shipment) (total shipments, less slit trench shipments, less irregular project shipments)	61	$1,854.92	$113,150
Slit Trench Operations (per slit trench offload)	0	$6,696.69	$0
Customer Assistance (per shipment)	65	$45.34	$2,947
Trench records (per container)	104	$124.06	$12,902
Total Calculated Variable Labor and Non-labor Costs			**$133,103**

The actual Variable Labor and Non-Labor Costs experienced in the disposal of waste in fiscal year 2009-2010 resulted in a Total Variable Labor and Non-Labor Cost of **$90,798**. This amount is **$42,305** less than the amount that would have been anticipated based on rates provided in Commission Order 2010-435. Therefore, Chem-Nuclear requests no adjustment in this category of costs.

Vault Costs

$28,931 Adjustment Proposed

The following table illustrates the vault costs that would be calculated using the Variable Cost rates identified in Commission Order No. 2010-435 and the volumes of waste received in each respective category.

	Volume Buried (cubic feet)	**Variable Cost Rate in Order No. 2010-435**	**Calculated Cost**
Class A waste	4,609.68	$39.03	$179,916
Class B waste	1,408.80	$40.44	$56,972
Class C waste	1,303.90	$41.30	$53,851
Slit Trench waste	0	$184.54	$0
Irregular Components (in vaults as an irregular cost)		N/A	N/A
Irregular Components (not in vaults)	27,304.00	N/A	N/A
Total Calculated Vault Cost			**$290,739**
Total Volume (cubic feet)	**34,626.38**		

The total cost incurred for routine disposal vaults used during fiscal year 2009-2010 was **$319,670**. Therefore, Chem-Nuclear requests an adjustment of **$28,931** in this category of costs.

Irregular Costs: $1,006,019 Adjustment Proposed

The following table summarizes the Irregular Costs incurred in fiscal year 2009-2010 organized by projects. Costs incurred for Irregular Projects in fiscal year 2009-2010 included $972,655 for trench construction and operations to dispose of four old steam generators. The customer in this case was billed an amount sufficient to cover all allowable costs incurred by the site operator to dispose of this waste. Exhibit B provides additional descriptions of each of these irregular projects. The total costs incurred in fiscal year 2009-2010, as Irregular Costs, were **$1,159,019** compared to the amount identified in Commission Order No. 2010-435 of **$153,000**. Chem-Nuclear therefore requests an adjustment of **$1,006,019** in Irregular Costs.

Irregular Cost Item	Order No. 2010-435	Actual FY 09-10 Labor	Actual FY 09-10 Non-Labor	Total Cost FY 09-10
Various Trenches (design, construct, and backfill): Trench 86, Trench 97, Trench 98, and Trench 99.	$30,000	$2,744.76	$71,726.39	$74,471.15
License Renewal and Appeal costs	$10,000	$5,861.77	$10.00	$5,871.77
Decontamination and Corrective Actions	$5,000	$2,234.41	$(0.36)	$2,234.05
Site Engineering and Drawing Updates	$3,000	$1,730.93	$605.50	$2,336.43
Site Assessments	$5,000	$1,080.54	$0	$1,080.54
Severance Pay:	$75,000	$53.52	$62,198.80	$62,252.32
Other Irregular costs (Waste Tracking Special Requests, Assessment of Proprietary Submittals, Special Site Maintenance Projects, and B&CB staff support)	$5,000	$24,191.48	$3,080.17	$27,271.65
Increased Security Controls	$20,000	0	$10,845.72	$10,845.72
Irregular Costs without Large Component Disposal	$153,000	$37,897.41	$148,466.22	$186,363.63
Large Component Disposal (Design, construction and backfill for Trench 91 and Disposal of Four Old Steam Generators)		$90,063.24	$882,591.85	$972,655.09
Total Irregular Costs	**$153,000**	**$127,960.65**	**$1,031,058.07**	**$1,159,018.72**

EXHIBIT B:

FISCAL YEAR 2009-2010 IRREGULAR COSTS

ORGANIZED BY PROJECT

PROJECT NUMBERS	PROJECT NAME AND EXPLANATIONS
188701.8012 188701.8014 188701.8027 188701.8029	**Various Trench Construction and Backfill Operations** **(Labor $2,744.76 and Non-labor $71,726.39)** Trench construction activities in fiscal year 2009-2010 included design, construction and backfill (including use of free flowing sand where applicable) in Trench 86, Trench 97, Trench 98, and Trench 99.
952188.8001 952188.8002	**Appeal DHEC License, License Administration,** **(Labor $5,861.77 and Non-Labor $10.00)** 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.
188000.8005 188000.8006	**Decontamination and Corrective Actions** **(Labor $2,234.41 and Non-labor ($0.36))** Includes costs related to decontamination efforts and corrective actions required as a result of waste received for disposal. During fiscal year 2009-2010, costs incurred in these projects, although irregular and non-recurring in nature, were within the scope of waste disposal operations work.
188004.8001	**Site Engineering & Drawing Updates** **(Labor $1,730.93 and Non-labor $605.50)** 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.
952183.8001	**Site Assessments** **(Labor $1,080.54 and Non-Labor $0)** Included here are costs associated with special projects related to site performance as directed by SC DHEC. Also included are costs for providing SC DHEC with requested data records and analysis.
952186.8002	**Irregular Severance** **(Labor $53.52 and Non Labor $62,198.80)** Includes costs for labor to screen employees and identify those to be terminated with severance pay. The reduction in labor resources was part of the transition to Atlantic Compact only disposal operations. Severance pay for four employees is considered a non-labor cost.
952182.8002 952182.8003 952183.8003 952192.8002	**Other Irregular Costs (Waste Tracking Special Requests, Assessment of Previous Proprietary Submittals, B&CB Staff Requests)** **(Labor $24,191.48 and Non-labor $3,080.17)** Included here are costs for specific special requests for waste disposal data from

188000.8009 **188000.8011** **188031.8001**	generators, regulators and others acting in an official capacity. Also included here are costs for SC B&CB staff requests and small adjustments in projects from the previous Fiscal Year.
188008.8001	**Increased Security Controls** **(Labor $0 and Non-labor $10,845.72)** Costs associated with maintenance, repair and replacement of physical security equipment as approved by SC DHEC to implement increased controls over radioactive materials at the disposal site. Some of the previously installed equipment was damaged during a storm.
188007.8001 **188701.8028**	**Large Component Disposal** **(Labor $90,063.24 and Non-Labor $882,591.85)** Included here are costs for design, construction and backfill of Trench 91 and disposal of four old steam generators in Trench 91. The customer was billed an amount sufficient to cover all allowable operating costs incurred by the site operator to dispose of this waste.

EXHIBIT C:

FISCAL YEAR 2010-2011 COSTS

We propose the following amounts be identified as allowable costs for fiscal year 2010-2011:

FIXED COSTS	
Fixed Costs to which 29% operating margin is added	
Labor, Fringe and Non-Labor	**$1,371,044**
Corporate Allocations (Management Fees/G&A)	**$560,378**
Depreciation	$67,147
Insurance	$431,175
Equipment Leases and Support	$136,176
Fixed Costs to which 29% operating margin is not added	
Legal Support	**$207,407**
Total Fixed Costs	**$2,773,327**
IRREGULAR COSTS	
Trench Construction	$30,000
License Appeal	$10,000
Corrective Action	$5,000
Site Engineering Drawing	$3,000
Site Assessments	$5,000
Miscellaneous	$20,000
Increased Security Controls	$10,000
Severance Pay	$75,000
Total Irregular Costs	**$158,000**
VARIABLE COSTS	
Variable Labor and Non-Labor Rates	
Vault Purchase and Inspection (per vault)	$78.98
ABC Waste Disposal (per shipment)	$1,892.02
Slit Trench Operations (per slit trench offload)	$6,830.62
Customer Assistance (per shipment)	$46.25
Trench Records (per container)	$126.54
Variable Material Cost Rates (Vaults)	
Class A Waste (per cubic foot)	$39.81
Class B Waste (per cubic foot)	$41.25
Class C Waste (per cubic foot)	$42.13
Slit Trench Waste (per cubic foot)	$188.23

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

Docket No. 2000-366-A

IN RE: Application of Chem-Nuclear Systems, LLC, a Subsidiary of Energy Solutions for Adjustment in the Levels of Allowable Costs and for Identification of Allowable Costs (FY 2010-2011 Proceeding)	)	**CERTIFICATE OF SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the Application of Chem-Nuclear Systems, LLC for FY 2010-2011 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
State of South Carolina
Post Office Box 11549
Columbia, South Carolina 29211

The Honorable C. Earl Hunter
Commissioner
SCDHEC
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September 30, 2010

Columbia, South Carolina