June 2, 2004

The Honorable George V. Voinovich, Chairman
Subcommittee on Clean Air, Climate Change, and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

During the U.S. Nuclear Regulatory Commission (NRC) oversight hearing on May 20, 2004, you requested a letter from the Commission on the impacts of having to operate under an FY 2005 continuing resolution. As discussed in greater detail below, operating under an FY 2005 continuing resolution would delay the NRC's review of the Department of Energy's (DOE's) high-level waste repository application and the NRC's review of various advanced reactor applications. It would likely have lesser impacts on other key programs, such as the licensing of new uranium enrichment facilities.

The FY 2005 President's budget for the NRC is $670.3 million, a $44.2 million increase from the FY 2004 budget. Most of that requested increase is in the NRC high-level waste program. Our FY 2005 budget includes $69.1 million for high-level waste regulation, which is $36 million above the FY 2004 appropriation. Consistent with that request, NRC was planning substantial increases in staffing, contractor, administrative, and infrastructure support to meet the statutory time period for NRC review of the DOE's application to build a high-level waste repository at Yucca Mountain, Nevada. That application is currently expected to be submitted in December 2004. Since NRC must fund high-level waste repository-related expenditures from the high-level waste fund appropriation, a continuing resolution that provides FY 2005 high-level waste funding at the FY 2004 appropriation level would disrupt our preparation to review the DOE application and delay our review of that application, once submitted. A continuing resolution would also delay our full-scale testing of a certified transportation rail cask for spent nuclear fuel.

The Commission has much more flexibility in the rest of our budget. The President's FY 2005 budget for non-high-level waste repository activities increases by only $8.2 million to a total of $601.2 million. Under a continuing resolution at the $593 million FY 2004 appropriations level, the Commission would plan to delay our review of various advanced reactor applications (three early site permit requests, the pre-application reviews related to the Advanced CANDU Reactor (ACR-700), and the GE Economic Simplified Boiling Water Reactor (ESBWR), and to delay review of other new license applications, such as those for two new enrichment facilities in New Mexico and Ohio. Since our first priority must be to ensure the safe and secure operation of existing facilities, the Commission would plan to fund fully our oversight programs in both safety and security and to fund fully such key activities as the Davis-Besse lessons learned follow-up items and prompt resolution of generic safety issues.

Should the President's FY 2005 request ultimately be fully funded in spring 2005, many of these impacts of a continuing resolution would be ameliorated. But the time lost through spring 2005 in various licensing reviews, particularly the review of the high-level waste repository application, will not be recoverable.

In summary, a continuing resolution would have significant adverse impacts on our ability to conduct some very important programs and activities.

Sincerely,

/RA/

Nils J. Diaz

cc: Senator Thomas R. Carper