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NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING ON THE REQUEST FOR INFORMATION ON FEES DEVELOPMENT AND COMMUNICATIONS

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WEDNESDAY

APRIL 13, 2016

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ROCKVILLE, MARYLAND

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The Public Meeting convened in the Commissioners' Hearing Room at the Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, at 3:30 p.m., Lisa Clark, Facilitator, presiding.

PRESENT:

LISA CLARK, Facilitator

MAUREEN WYLIE, NRC Chief Financial Officer

BILLY BLANEY, NRC Office of the Chief Financial Officer

MICHELE KAPLAN, NRC Office of the Chief Financial Officer

CHRISTINE GALSTER, NRC Office of the Chief Financial Officer

JEREMY SUTTENBERG, NRC OGC

ALSO PRESENT:

JOHN BUTLER, NEI

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P R O C E E D I N G S

3:31 p.m.

MS. KAPLAN: Okay. Welcome to our meeting on the request for information on Fees Development and Communication.

I'm Michele Kaplan. I am the Licensee Policy Team Leader. I welcome everyone that's participating in person, on the phone and in the webinar.

What I'd like to do very briefly is to turn things over to Lisa Clark to go over our ground rules.

FACILITATOR CLARK: Thank you very much. And welcome everybody. Again, my name is Lisa Clark and I'm going to be the Facilitator for today's meeting.

The purpose of our meeting today is to discuss the request for information associated with the development of the Agency's fees and communications. This is a Category 2 meeting in which the public is invited to participate to discuss regulatory issues.

Our meeting this afternoon will begin with a presentation by Michele Kaplan. She's our team leader for our Licensee Fee Team here at the NRC. We will then open up the meeting for questions and answers.

Our meeting today is being transcribed. Although we are recording the meeting, we would ask that you submit any written information or comments you would like us to consider and we'll provide you information later in the meeting on how to do that. In order to insure we have an accurate and complete transcript I'd ask that you please identify yourself when asking a question and also please use the microphones in the room so everybody on the phones can year.

We have an operator assisting our telephone bridge line today. She will provide information to our meeting participants on the phone on how to ask questions if you would like to do so.

For those of you in the room today, I'd like to remind you to complete our meeting feedback forms. They are also available on line for the telephone participants. You can find them on the NRC public website. You simply log on to the website, locate the meeting under our Public Meeting Schedule and you will find the feedback form there.

Now, I would like to turn the meeting back to Michele.

MS. KAPLAN: Thank you, Lisa.

Each year the NRC determines its hourly, annual and flat fees via the rulemaking process. In conjunction with Project AIM, the Office of the CFO is now undertaking an effort to simplify how the NRC calculates fees, improves transparency and improves the timeliness of communications of fee changes. As part of that effort, we are requesting information from the public on issues related to the development and communication of Agency fees.

Our Request for Information was published in the Federal Register on March 22nd of this year. Our goal is -- the focus of this information gathering effort is to obtain information to consider when evaluating possible changes to how we develop our fees. Potential improvements identified during this activity may be implemented in a variety of ways including during the development of future annual fee rules or by making additional information available on our website such as additional work papers or other supporting documentation.

Particular Area of Focus. The Federal Register notice that we issues asked the following questions. What are some specific ways that the NRC can improve the public's understanding of its fees and how those fees relate to the Agency's budget? How can we communicate this information effectively?

Two. What are some specific improvements that could be made to the fee-related work papers or forms? Currently, we have work papers that are posted to our website to support the annual fee rule. What else can we do? What else can we provide to our stakeholders?

Three. How can the NRC improve its explanation of any changes to the annual fees or the hourly rates in the annual fee rule? This year we streamlined the fee rule by removing redundant language to increase shareholder understanding.

Four. What additional information can the NRC provide along with the proposed fee rule and work papers to help explain how the NRC determines its fees?

Five. Given the statutory requirement to base the NRC fees on the annual appropriation enacted by Congress are there any ways that the NRC can improve the timeliness of completing the annual fee rule or the communication of fee changes? This year the proposed fee rule incorporated the enacted appropriation. Last year the proposed fee rule was based on the current estimate. The final rule was based on the appropriation. So this year we did improve the timeliness of the information in the fee rule by using our enacted appropriation.

Are there activities that the NRC should convert from fee-billable to non-fee-billable or vice versa and why such as a specific service to a fee class as an example?

Are there activities or fee classes that are more suited to flat fees rather than hourly fees? Flat fees are based on an analysis of the average amount of time it takes to perform a task. Flat fees provide predictability. How can we provide more flat fees?

Are the current fee classes and categories appropriately defined? Do we need to add clarification?

Nine. Is there general information that the NRC can add to its public website that would increase understanding of our fee development and invoicing processes? What are we missing?

So, in conclusion, in addition to the specific questions that I just mentioned we would welcome input on other issues related to fee development and transparency. The responses to the Request for Information are requested by May 6 of this year. And we plan to complete a Commission Paper by August 15th of this year. The paper will contain recommendations for potential improvements for the coming year and future years.

Thank you in advance for your support for this effort. I'd like to turn it over to Maureen.

MS. WYLIE: Thank you very much, Michele. And I'd like to simply add that please don't feel constrained by these questions. If you have ideas we'd love to take them and we'd also love to get whatever further ideas you get in writing through the process as described on the slides.

Do we have a link for people to --

MS. KAPLAN: We have a slide that we're going to put up when Lisa takes over --

MS. WYLIE: At the end.

MS. KAPLAN: -- at the Q&A session, right. And it has the address where they can send in the comments. It has the various ways. Okay. Yes, there it is. It's up right now.

MS. WYLIE: Fabulous. All right. So, let's start the questioning and answering.

FACILITATOR CLARK: Very good. Operator, we are now going to turn to our question and answer period. Do we have any questions in the room?

MR. BUTLER: John Butler, NEI. Do we have any questions? That's almost silly.

We made comments on this before and I think I mentioned it in the previous meeting. If there are ways that we can improve the timing or the issuance of the proposed rule and the issuance of the final rule that would be received very positively by many licensees.

You've mentioned that one of the constraints in accelerating the final rule is and it's classified as a major rule. Can you help me understand what is it about this that is a major rule. I mean, classified is a major rule and what can be done to, I guess, alleviate that?

MS. WYLIE: So, I'll start and you can correct me when I go wrong. Okay.

So, a major rule effectively is a rule that has more than $100 million worth of impact on the economy. So, by that measure, you would say that in fact this would be a major rule since it's currently $885 million worth of impact on the licensees roughly depending on what year you're in. But since it's on a very defined class of individuals and licensees -- corporate licensees, that we do it on an annual basis. People anticipate that they will be paying fee. We have engaged in at least a discussion with OMB about is there an exception in this case. And so one of the ways that we might do that would be to go from issuing a new rule each year to issuing simply an update to the fee schedule. So, for sake of argument, if we said that the 16 fee rule was the rule for '17 we might publish essentially a difference table. We might be able to do that more quickly.

There are plusses and minuses associated with that about transparency but that would be one way that we would be able to go quicker through the processing of the rules. So, we would gain time in that way.

FACILITATOR CLARK: Maureen, we do have a person from the Office of General Counsel here.

Jeremy, would you like to address this as well?

MR. SUTTENBERG: Hi, this is Jeremy Suttenberg from OGC. The only other minor thing that I would add is this major determination comes from the Congressional Review Act and so it's not really a statement about the rule per se. it's how it fits into the Congressional Review Act framework and then OMB's charge under that statute by making the major/non-major determination. And one of the factors that they look at is the $100 million impact on the economy. So, it's not something that we control that determination. It's something that's set by the statute.

MR. BUTLER: And the impact that the classification of the major rule has on the issuance on the final rule is the amount of time it has to be --

MS. WYLIE: Yes. It also because of all of the information required it is a more laborious process. So, we think that we could probably get process efficiencies into it as well as it being in place sooner -- available to licensees sooner and then placed soon for collection purposes.

So, instead of getting your new bill in August with only 30 days to collect you could get your bill in July or even June and that would essentially make that information available to the licensee sooner.

The other impact would be as our budget declines and as the rate declines the rate would be available sooner.

MR. BUTLER: Good. Okay to continue?

The work papers that are associated with the proposed rule and the final rule, I guess, were there any substantive changes in the format of that between what was done in 2015 and 2016?

MS. GALSTER: Yes, there were. Under the hourly rate calculation we did include budgetary resources that make up the mission indirect program and the management support agency program.

MR. BUTLER: Okay, good.

MS. GALSTER: So, there's more information.

MS. WYLIE: But there was a breakdown of what made up those line items specifically.

MR. BUTLER: Okay. Good. I know this is kind of a pet peeve but I do -- I would very much appreciate if anything that can be done to make the work papers more legible or in a format that is easier for those that are visually challenged to read.

MS. WYLIE: So, that would include me. But I agree. So let's take it that that's something we can work on regardless to changes in the rules. We will take that.

MR. BUTLER: Kind of changing categories if I can continue? I don't want to take up all the time.

FACILITATOR CLARK: Why don't you take one more and then we'll see if we have anything on the phone.

MR. BUTLER: Okay. Well, this next one I'll tee it up and I don't want to take too much time with it because it could be a longer discussion.

But review categories. I think a lot of the anxiety of different licensees can be reduced if they just know what they're getting into with the review process. Department 170 fees when they're continuing to get bills for a review and they don't know what the endpoint is causes a lot of anxiety and uncertainty. So, while we've talked about a little bit if there were a way to when a licensee submits something for review, a LAR or a topical report or anythng else, if there were a way to categorize it up front to give them an idea of how much it would cost to complete the review, you know, categorize it, small, medium, large or however you want to categorize it but that provides a way that the licensee can track how they're doing relative to that projected cost and NRC will have a way to manage to that cap and recognizing that not all reviews are the same that there will be valid reasons for something to exceed, you know, to continue or to go beyond their original projection those can be identified earlier and can be addressed and communicated to the licensee. I think a lot -- if anything can have more impact -- it will have a lot of impact on how the licensees view the NRC billing process, if anything can be done to improve that.

MS. WYLIE: Okay.

MR. BUTLER: You know, if it starts with the Pilot Program and expands out to other review areas, that would be great but, you know, the quicker we can engage on that type of discussion and get something like that in the process I think would greatly improve the lack of certainty in some of the review processes.

MS. WYLIE: Okay. Thank you.

FACILITATOR CLARK: Okay. Thank you very much.

At this time I'd like to see if there are any questions on the telephone.

OPERATOR: There are no questions in the queue at this time. If you do have a question, please press *1. I'm showing no one prompting.

MS. WYLIE: Okay. Thank you. Well, then please continue.

MR. BUTLER: I know one area that I've received a lot of comments. I don't personally have a lot of knowledge on this but I know that invoices as they are received by licensees, it's always a case of more information is always going to be desired. So, that's the general comment to include more information on the invoices of what the licensee is being charged for and this would fit hand-in-hand with the previous comment on trying to identify up front what the costs will be on various activities. But not only identifying in the invoices -- quarterly invoices or however they're invoiced, what the, you know, it is for the quarter but to tally up what it is in total for that review activity to help the licensee track. I know that somewhere in the process there's a connection between the tack number and what the activity is but that's not always available to the person responsible for paying the bill and the tighter the connection that can be made on the actual invoice between the tack number and what the activity is would be very helpful.

But, in general, having more specific information in the invoice would be greatly appreciated, especially, when it comes to contractor hours.

MS. WYLIE: So, we are in the process of implementing a change to the character length of some of the descriptions of some of the codes. So, that's really a rudimentary step in the direction that I think that you're asking. But we recognize that more information up front would also make the invoice understanding and invoice dispute processes go more smoothly as well.

Do you want to push?

MR. BLANEY: Just to add a little bit onto that answer. There are licensees currently getting -- and if anyone is interested our accounts receivable branch does have the ability to provide uncertified estimates in advance. We have a full listing of licensees that currently do that. You can actually email the fees.resources.NRC.gov email. And ask to put on the estimated list and they would just have to provide the docket number and contact information. This is something that is submitted out every pay period for the full cost customers when they're actually, you know, once a pay period time and labor is accumulated for fee billing, again, it is uncertified date but, however, it is a way of at least providing an advance estimate prior to the end of the quarter.

MR. BUTLER: And these are estimates for --

MR. BLANEY: Full cost bills, the part 170.

MR. BUTLER: Okay.

MR. BLANEY: Go ahead.

MR. BUTLER: Well, I guess I want to expand upon that. In fact, that's a good start. My vision of this -- the use of these cost estimates is that it can also be used as a management tool both by the licensee and the NRC and I suspect that that's not the case right now.

MR. BLANEY: No, that's currently not the case. However, until we get to the point where I think everyone is working, you know, really well together in that area, it's at least a start where we can hopefully provide some sort of estimate to the customer.

MR. BUTLER: Good.

MS. WYLIE: It doesn't address your contract issue so we'll deal with that separately. But that's fair, thank you.

FACILITATOR CLARK: As time is running somewhat short, are there any other questions in the room here? No?

All right. Your mic.

MR. BUTLER: This is John. I just had one last question. This is primarily for my understanding and learning. Hearings mandatory versus disputed hearings, you know, I guess part of these the mandatory hearings as I understand it are billed under

Part 170 and disputed hearings are billed under Part 171.

MS. WYLIE: Okay. So, this is how it breaks down. Uncontested hearings and contested hearings involving national security are billed under Part 170. Contested hearings, whether they're including for environmental or safety those are not billed under Part 170. They are included in the annual Part 171 fee.

We could look at that as an area to change in the future.

MR. BUTLER: For the hearings that are -- do you have a sense right now of how many hearings there are each year? I mean, I know that varies from year to year but, you know, I'm trying to get a sense and generally what each hearing costs?

MS. WYLIE: It's a lot. It's very hard to estimate because it depends on where the licensee -- the class the licensee and where the licensee is in the process. So --

MR. BUTLER: Do you have a sense of how many of the total number of hearings how many are uncontested, just mandatory but uncontested and how many are --

MS. WYLIE: So, I could produce that

information in terms of the mandatory hearings. I don't know -- I don't know that we can predict the ones that are uncontested but that's something we could look at. I'm pretty certain I can tell you in a year what year we project there to be mandatory hearings because we do agenda planning. That's based on what the business lines know is coming. But it does vary by licensee class.

MR. BUTLER: I'm trying to get a sense of whether it would make sense to put in a recommendation that hearings be billed differently, maybe as even a flat fee for hearings. But i don't have the information right now to really assess the degree to which the cost of these hearings varies.

MS. WYLIE: So, how about -- so, certainly what we'll do is we'll take that commend as something for our further analysis. And as we work on this there'll be other opportunities for us to be transparent about this. So, in the fullness of time where we are on that will come forward.

MR. BUTLER: Right, great. I appreciate the time. Thank you.

MS. WYLIE: Thank you very much.

FACILITATOR CLARK: Okay. Once again are there any questions on the phone line?

OPERATOR: At this time I'm showing no questions. To ask a question hit *1.

FACILITATOR CLARK: Anybody else? Any questions in the room?

All right. It sounds like then we have completed this portion of the meeting. I believe we have a slide. We can put the slide back up that shows how to submit comments. As you'll see, I just want to point out. This is somewhat different than the manner in which you submit comments on the fee rule. You can either provide them on our Federal Rule Marking Website which is shown on the slide or you can mail information and comments to Cindy Bladey and her address is on that slide.

So, at this time, I'd like to turn the meeting back to Michele.

MS. KAPLAN: Thank you, Lisa. And this concludes our meeting for today and thank you to all the participants who are here in the room and those on the phone and on the webinar.

MS. WYLIE: thank you all very much. We're adjourned.

(Whereupon, the above-entitled matter went off the record at 3:57 p.m.)