

From: [Dawn Kolkman](#)
To: [RulemakingComments Resource](#)
Cc: [Scott Bakken](#); [Paul Goranson](#); [John McCarthy](#)
Subject: [External_Sender] Comments to 10 CFR Parts 9, 170, and 11 Revision of Fee Schedules; Fee Recovery for Fiscal Year 2016
Date: Monday, April 25, 2016 6:18:38 PM
Attachments: [Uranerz Energy Corporation Comments to NRC Proposed 2016 fees.pdf](#)

Per Federal Register, Vol. 81, No. 56 (dated March 23, 2016) comments to the proposed rulemaking may be submitted via email.

Regards,

Dawn Kolkman

Permitting Manager



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April 25, 2016

Secretary,
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attn: Rulemakings and Adjudications Staff.

Re: Comments on Proposed Revision of Fee Schedules; Fee Recovery for Fiscal Year 2016, 10 CFR 9, 170 and 171, Docket ID NRC-2015-0223

Dear Sir or Madam,

Uranerz Energy Corporation, an Energy Fuels Company ("Uranerz") appreciates the opportunity to comment on the proposed fiscal year 2016 fees. Uranerz is a NRC licensed Uranium Recovery Facility in North Central Wyoming. License SUA-1597 was issued in July 2011 and operations commenced in April 2014 after passing the NRC pre-operational inspection.

Below are Uranerz comments regarding the Proposed Revision of Fee Schedule as issued in the Federal Register, Vol. 81, No. 56, regarding annual fees and hourly rates. Uranerz also provides a discussion of quarterly invoicing and the budgetary effects on industry.

Proposed Changes in the Part 171 Annual Recovery Fees Fiscal Year 2016

According to the Regulatory Flexibility Act ("RFA"), NRC is to consider the impact of their rulemakings on small entities. By definition, Energy Fuels, Inc. of which Uranerz is a wholly owned subsidiary, is considered a small entity. In light of today's uranium market, the proposed 11.1 percent increase in annual fees would add undue additional costs to a small business entity.

In its rulemaking, NRC has indicated that the cost of doing business for the year 2016 will increase for Recovery Licensees, which is experiencing an 11-year record low price environment. At the same time, NRC is decreasing fees for all other license categories. In 2015, the Energy Information Agency ("EIA"), reported a 38% decrease in uranium production in the United States from 2014. This is not an indication of a healthy and robust domestic uranium recovery industry. Consequently, NRC should examine their staffing practices to determine if whether are overstaffed in some areas and understaffed in others since the increases in Part 171 fees would further burden to the domestic industry that consists of mostly small businesses. The domestic uranium recovery industry is forced to make tough decisions regarding staffing and priorities when low commodity prices are squeezing budgets; NRC should similarly consider its staffing and resource allocation rather than raising fees on an already hard pressed segment of licensees. The proposal cites the reason for the increase in annual fees is "due to additional work expected for the Uranerz Energy-Jane Dough and Strata Energy-Kenderick expansions, increased inspection activities for Strata Energy-Ross (a new licensee to fleet), increased hearing activities, and the Uranium Mill Tailing Radiation Control Act bio-sequestration review for DOE-Monument Valley" (Revision of Fee Schedules; Fee Recovery for Fiscal Year 2016, NRC-2015-0223).



Uranerz takes exception as to why the NRC is increasing the annual fees spread out amongst the Uranium Recovery Licenses based on the aforementioned reasons. All of the additional work as mentioned in the Federal Register, Vol. 81, No. 56 is already accounted for in the increased number of licenses for Part 171 fees and cost recovery through Part 170 fees using hourly charges for that work. Additionally, uranium recovery licensees should not be funding programs that would more logically be paid for through appropriated funds (such as the above-referenced DOE program). It is therefore understandable for a licensee to perceive that they are being billed partially through Part 171 fee recovery for work that is also covered by Part 170 fee recovery.

Uranium recovery operations are the lowest risk portion of the uranium fuel cycle, and by most risk standards, would therefore require the least oversight. As proposed by the increase in Part 171 fees, it is apparent the uranium recovery industry is subject to more scrutiny and associated costs than one would reasonably expect.

Please note, there appears to be an accounting error in the FY 2016 Proposed Fee Rule Work Papers in Section III.A Part 171 Annual Fees for Uranium Recovery Facilities. Under the table for "Mission Direct Budgeted Resources" there is no description for line (5). Additionally, line (12) "Total FY 2016 Annual Fee," which is supposed to be the summation of lines 5,8,10 and 11, adds up to 0.935 (not 0.9372 as stated).

Proposed Part 170 Hourly Rates

Uranerz commends the token act of lowering the hourly rate of \$268/hr to \$266/hr. Unfortunately, NRC has increased the number of reviewers, use of contractors, and level of reviews for various submittals. As a result, even a minor license amendment could end up costing several thousands of dollars due to the internal review process that seems to be more concerned with protecting the process rather than worker or public safety. NRC has issued several regulatory guides that are intended to reduce review and ultimately, costs to the Commission and the licensee. However, from the perspective of a licensee, the technical review, judging from a portion of the request for additional information for recent license amendments for Uranerz and other licensees, the reviews appear to be conducted without reference to such regulatory guides. Further, even prior review and approvals by NRC appear to be overlooked. NRC should concentrate their efforts on reviewing the submitted new amendment data and information versus reviewing approved documents as is described in NUREG documents (e.g. NUREG-1569 and NUREG-1748). By remaining focused on submittals of new information the cost to the customer (licensee) would be lowered by minimizing review time. Currently, the licensees are paying for the review of already approved documents in conjunction with amendments and submittals, resulting in duplication of efforts by the NRC and an increase in the hours expended, thus negating the economic benefits created by the \$2/hr rate decrease.

An example of the NRC expanded and increased level of review is Uranerz's Jane Dough License Amendment submitted in mid-2014 (see Federal Register, Vol. 81, No. 56). The Jane Dough Amendment



area is adjacent to and an extension of the licensed Nichols Ranch properties. The Nichols Ranch properties are comprised of wellfields and two production areas; the Jane Dough Amendment area would add two additional production areas. Production at Jane Dough will be pipelined to Nichols Ranch and does not contain a processing plant or satellite facilities, therefore all of the process and procedures remain identical to the existing approved license. Because there is minimal impact to the environment or risk to the public and employees, Uranerz anticipated the NRC review would be efficient and expeditious. That has not been the case.

Uranerz received the acceptance review of the Jane Dough Amendment in August 2015, which was more a year after the original submittal. For that, NRC billed \$522,483.83 in Part 170 fees. At that point, the amendment request was accepted for formal review by the NRC. Subsequently, the ongoing formal review of the amendment has amassed an additional \$663,285.13 (equivalent of 2,475 review hours) and resulted in over 61 pages of Requests for Additional Information ("RAIs") by the NRC. Most of the RAIs are administrative in nature and do not lower the expected risk(s) to the environment, public nor workers. When a government agency looks to "form over substance" at tremendous cost to the licensee without concurrent public benefit, the effectiveness of its oversight function is necessarily called into question.

Total cost-to-date for NRC review of the Jane Dough Amendment is \$1,185,768.96. To put this in context, the total amount paid by Uranerz for the entirety of the original license, which includes a full processing plant, was \$2,489,488. At the NMA Uranium Workshop held in June 2015, Andrew Persinko, the former Deputy Director of the Division of decommissioning and Uranium Recovery, stated in a presentation that the average cost for Part 170 fees for a new Uranium Recovery license is \$2,700,000. At the rate of billing for the Jane Dough Amendment to SUA-1597, it appears Uranerz could end up paying more in Part 170 fees, for two wellfields, than was paid for the original source material license. The level of review and the hours spent are not justified by the low risk nature of the in-situ recovery industry and have jeopardized the Company's ability to proceed with such Amendment.

Comments on how Part 170 Hourly Fees are Invoiced

As a licensee, the most troubling part of the way NRC conducts Part 170 fee recovery is the way invoices are presented to a licensee. The typical invoice for Part 170 hourly fees are relatively high level, and only identify an individual and an abbreviated description of the work performed. From the perspective of a licensee, it is important to understand the basis of each of the charges and amount of work performed. As described above, from our perspective, the level of Part 170 fees charged against Uranerz's Jane Dough License Amendment over the last few quarters appear uncontrollable, and these significant costs are being incurred at time when record low commodity prices have already constrained budgets. For example, when managing third party professional services (whether legal, financial, technical or engineering), it is customary for the billing information to be provided in sufficient detail to demonstrate accountability to the client. Therefore, it is not unreasonable that a more detailed explanation of the work performed be included with NRC invoices. This enables the client to ensure that work is not being duplicated and charged to the licensee. Even in times of higher commodity prices, a licensee must budget for these costs, whether for routine work such as inspections and project management, or for work performed on license amendments. The costs due to Part 170 fee recovery charges that Uranerz has experienced with the Jane



Dough license amendment have greatly exceeded internal expectations and historical practices, causing significant budget overruns by Uranerz and its joint venture partner. NRC staff does not do an effective job of communicating any form of guidance on the level of Part 170 fees that could be charged to a licensee in a quarter. Because of staff scheduling and commitments, NRC has made it clear that government contractors are often utilized for reviews of submittals, applications and amendments. The contractor charges are not detailed on the invoice, and in some cases, it is unclear whether the charge is being created from work performed by NRC staff or by contractors. As a result of these practices, the licensee is forced to give its "best guess" estimate, and in the case of Uranerz, the invoice amounts have been unexpectedly high without NRC providing a reasonable level of detail or accountability.

The uranium markets are characterized by continued low uranium prices, and there is intense competition within limited budgets for cash and capital. As a prudent uranium production company, we focus on maintaining budgets to assure the economic viability of our operations. Currently, there is no way to budget effectively for Part 170 fees, which poses a real challenge to predicting cash flows and work progress. In light of the foregoing, we respectfully request that the NRC reconsider the proposed revision of fee schedules and refine its billing practices to provide sufficient detail to licensees.

Sincerely,

A handwritten signature in black ink, appearing to read 'William P. Goranson'.

William P. Goranson, P.E.
Executive Vice President ISR Operations
Uranerz Energy Corporation (an Energy Fuels Company)

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