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May 31, 2017

Maureen Wylie  
Chief Financial Officer  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

RE: *United States of America v. Energy Solutions, Inc. et al*, (D. Del.  
1:16-cv-01056-SLR)  
NRC File No. TR-17-01

Dear Maureen:

On Thursday, May 25, Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden") received an invoice from the Nuclear Regulatory Commission ("NRC") for time spent complying with the *Touhy* subpoena Skadden served in the above-captioned litigation. The invoice totaled \$86,855.00 for 318.50 hours of work. Pursuant to NRC regulation 10 CFR Part 170.11(b), Skadden kindly requests that the NRC agree to waive all, or at least a portion, of the fees.

Skadden issued the *Touhy* subpoena to the NRC on behalf of *EnergySolutions* ("ES"), a Defendant in *United States of America v. Energy Solutions, Inc. et al*, (D. Del. 1:16-cv-01056-SLR), in which the Department of Justice ("DOJ") sued to enjoin ES' proposed acquisition of Waste Control Specialists. It was necessary for *EnergySolutions* to take discovery of the NRC because the DOJ had included Mr. John Tappert, Director of the NRC's Division of Decommissioning, Uranium Recovery, and Waste Programs, as a trial witness on its preliminary witness list.

Skadden issued an initial subpoena to the NRC on January 25. At that time, Skadden attorneys spoke with NRC counsel who indicated that the subpoena likely would require more than 50 hours of review time, and that Skadden must agree to pay costs associated with subpoena compliance. After working cooperatively with the NRC Office of General Counsel, Skadden

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significantly narrowed its requests and served a revised subpoena and *Touhy* affidavit to the NRC on February 2.

Subsequently, the NRC produced three batches of documents on February 22, February 28, and March 7. In total, the NRC produced 837 documents in response to Skadden's subpoena and NRC counsel attended Mr. Tappert's deposition on March 21 that lasted approximately 6 hours.

After receiving the NRC's invoice on May 25, I spoke to Andrew Averbach in the NRC's Office of General Counsel to better understand the amount due. He indicated that as many as 30 employees searched their email and files in order to comply with the subpoena. We were unaware during the subpoena process that so many individuals would be working to comply with the subpoena, especially since, with regards to internal NRC communications, the subpoena was focused on Mr. Tappert's email communications and NRC correspondence concerning ES' proposed acquisition of Waste Control Specialists. Had we known that so many employees were reviewing their records for responsiveness to the subpoena, we would have asked that the work be halted and we would have narrowed our requests even further, specifically to limit the search to emails and files only of Mr. Tappert and perhaps a few additional individuals most likely to possess non-duplicative information. As it was, we believed that we had sufficiently narrowed our requests to limit the amount of time the NRC staff had to spend on the effort, and so the invoice for 318.50 hours was a surprise.

Given that we had no choice but to subpoena the NRC in the litigation once the DOJ identified Mr. Tappert as a trial witness, and given that we believed we had done the necessary narrowing of our requests to limit the burdens on the NRC in its response, I kindly request that your office waive the resulting fees. If a full waiver is not feasible, then I ask that the NRC waive at least a portion, given the unusual circumstances of this situation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tara Reinhart', with a long horizontal flourish extending to the right.

Tara Reinhart