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NUCLEAR ENERGY INSTITUTE

September 15, 2017

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

Subject: NRC Budget Adjustments to Reflect a Decreasing Workload

Project Number: 689

Dear Ms. Wylie:

On behalf of the Nuclear Energy Institute's (NEI)[1] members, I wish to express the importance of strong fiscal discipline within the NRC resource management and budgeting processes. The industry is currently experiencing significant economic stresses. As licensees fund approximately 90% of NRC's budget, they are directly affected by the NRC's ability to make meaningful and timely budget adjustments that properly reflect reductions in the number of NRC licensees and the corresponding decrease in workload.

We recognize and appreciate NRC actions that have reduced the NRC's budget through efficiencies, reduced the hourly rate and decreased the annual fees being collected from some licensees. However, the financial challenges being faced by NRC licensees cannot be understated. It is our understanding that certain materials licensees will be forced to make difficult decisions regarding continued operations based, in part, on the adjustments NRC is able to make to its budget going forward. The NRC should take all necessary steps to continue its efficiency efforts and strive to make timely reductions in resources to avoid unnecessarily passing on costs to a decreasing regulated community.

The potential for further decreases in the number of licensees and corresponding workload decreases will challenge the NRC's current approach to budget formulation and execution. While a long-term solution may require congressional action, the NRC must act now to ensure that budgets properly reflect anticipated

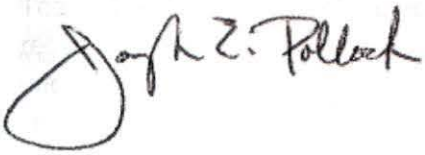
[1] The Nuclear Energy Institute (NEI) is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

workload and, consistent with GAO findings from its February 2017 audit report, the NRC should establish performance goals and measures for the budgeting and fee-setting processes.

The NRC should ensure that future budgets reflect a transparent, fair, and predictable fee structure for the regulated community. Recognizing that industry plays a role in this process, I suggest a meeting to better understand what actions industry can take so that NRC can be more responsive and timely with budget requests and adjustments to its budget.

NEI stands ready to work with NRC in furthering the dialogue to enhance budget planning and mission execution while adapting to a dynamic environment. Thank you for your time and attention on this important matter. If you have any questions, please contact me.

Sincerely,



Joseph E. Pollock

Attachment

c: Mr. Victor McCree, EDO, NRC
Mr. Fredrick Brown, Deputy Executive Director, NRC
Mr. Marc Dapas, Director, NMSS/NRC
Mr. Brian Holian, Acting Director, NRR/NRC
Annette Vietti-Cook, Secretary to the Commission

ATTACHMENT

Category Specific Concerns

Fuel Facilities: NRC programs, activities, and the budget need to reflect the changing workload, which has a direct impact on the amount of fees imposed on the regulated community. When licensee terminations are known, NRC should respond by promptly reducing its budget request. Unfortunately, this does not appear to have happened after the Centrus fuel cycle facility ceased operations, which was not unexpected. On March 2, 2016, Centrus notified the NRC of its decision to cease licensed activities and begin decontamination and decommissioning activities. On December 23, 2016, the NRC removed Centrus' authorization to enrich uranium, effectively rescinding the need for the facility to pay annual fees. Congress, however, did not pass the FY 2017 appropriations until May 5, 2017. This was more than ample time for the NRC to notify appropriators of the agency's changed workload and the inequities that would occur if its budget was not reduced.

The FY 2017 proposed rule estimated a reduction in annual fees for fuel cycle licensees to be between 12 and 16% and noted that adjustments would be needed based on the expected termination of the Centrus facility license. However, the actual decrease in annual fees in the revised final fee rule ranged from approximately 4 to 8%. NRC attributes this drastic change from the proposed rule to the "reduction of one licensee in the fee class." Such unpredictable significant swings in the proposed versus final annual fees cannot be justified and makes it untenable for licensees to build and execute their own budgets.

Rather than prepare a message for licensees that adjustments would be needed, NRC should have initiated changes to the requested budget amount to be recovered. Instead, the balance of the Centrus annual fee was split over the remaining small fleet of fuel facility licensees. The final, corrected rule stated that the "Lead Cascade's annual fee [are] to be spread among the six fee categories within the fee class for the remaining licensees." It appears that no changes were made to the NRC budget to reflect the termination of licensed activities for Centrus. In fact, the fuel facilities business line budget increased by $1.6 million, from $26.8 million in the proposed rule to $28.4 million in the final rule.

Further, as stated by an NEI representative during the July 2016 congressionally-directed NRC stakeholder meeting, the current operating fleet of fuel cycle facilities have maintained a strong operational safety record for many decades and represent a relatively low risk profile with regard to public health and safety; yet NRC had at that time a staff to fuel facility ratio of 19:1. NRC should consider reducing its oversight of these facilities based on performance and strive to identify further efficiencies such as consolidating the licensing and inspection programs given the very low number of licenses and their geographic locations.

Uranium Recovery: As stated in previous NEI comment letters, the potential transfer of uranium recovery licensees from NRC to the State of Wyoming is expected in 2018. The FY 2017 uranium recovery fees were based on 9 licensees, 7 in Wyoming. Assuming Wyoming receives their Agreement to regulate uranium recovery facilities, NRC will have to appropriately re-baseline

resources in this business line to ensure that the program costs are not simply spread across the remaining few NRC licensees, as has been the custom in past years. Further, NRC estimated in SECY-16-0035, Attachment 2 that NRC's full time equivalent would be reduced by 16 once Wyoming becomes an Agreement State. That being said, the remaining licensees cannot likely absorb even the reduced NRC program costs as it is currently budgeted. In 2016, NRC committed to conducting a pilot program to evaluate flat fees for uranium recovery licensees. This pilot will not be a benefit to the majority of the licensees in this fee class if they transfer to Wyoming's regulatory purview; therefore, the timing of the pilot may not be sufficient to support the remaining NRC licensees. Finally, as with the fuel cycle fleet, NRC should consider whether its licensing and inspection programs should be consolidated given the very low number of licensees and their geographic locations.

Power Reactors: The concern about NRC's ability to adjust to a loss of licensees extends beyond materials licensees. Several utilities have announced that they will prematurely shut down between now and 2025. Each of these licensees contributes a significant portion to the NRC budget through annual and hourly fees. NRC must be prepared to make meaningful and timely reductions that are proportional to the decrease in licensed facilities. There is ample time to depart from the current budgeting paradigm and ensure that the remaining operating reactors will not be burdened by increased fees to make up for documented premature reactor closures.