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Subject: **Transmittal of Westinghouse Electric Company Comments on Fuel Facilities Fee Matrix**

Westinghouse Electric Company (Westinghouse) appreciates the opportunity to comment on the proposed fuel facility fee matrix. Westinghouse supports the fair and equitable distribution of fees as required by law. However, for the reasons outlined in this letter, we believe it is premature to develop a new fee allocation approach at this time. Westinghouse believes that the best short-term step that NRC can take to ensure fee fairness for all fuel cycle facilities (FCFs) is to right-size the NRC Fuel Facility Business Line, with due consideration to the relatively low risk profile of this category of licensee. Therefore, Westinghouse encourages NRC to continue pursuing initiatives to improve efficiency. We acknowledge there has been improvement in this area, but at the same time believe more needs to be done to achieve the objectives of NRC's Principles of Good Regulation.

As NRC stated in the December 13, 2017[1] public meeting on this topic, the current fee matrix method is largely qualitative, and not based on or validated by inspection and licensing data. As a matter of fairness, Westinghouse believes that the fees allocated to the FCFs ought to be closely related to the services NRC provides to these licensees. However, as documented on Slide 6 of the slide package NRC prepared for the December 13th public meeting,[2] the estimated Part 170 collections for FY17 account for less than 1/3 of the total business line budget. Westinghouse would like to better understand what services NRC is providing the FCFs with the remaining 2/3 of the budget, and how the fee allocations directly relate to those services. Providing this information should provide additional insight into how the work NRC does should be split between the FCF fee categories. However, without additional information, Westinghouse is unable to provide detailed comments on the staff's approach or suggest a better alternative.

Based on the staff's presentation, it appears that a significant portion of the remaining 2/3 of the budget may be spent on discretionary activities, such as updating guidance documents. NRC should consider industry input when expending these discretionary resources to ensure the effort is appropriately sized and prioritized. Work on guidance documents should be tightly controlled, and focused on safety-significant activities and industry needs.

[1] ML17339A121
[2] ML17339A121

Based on a review of all guidance documents and procedures used for regulating FCFs,[3] NRC listed approximately 250 documents, about 100 of which have been updated in the past five years. This presentation did not provide enough information with respect to the purpose of these revisions; the hours and resources spent to revise these documents, or how much of the costs associated with these revisions are captured in the FCF fee base. A more in-depth discussion between NRC and industry is needed to better understand this work. For example, it would be helpful for industry to understand the projected size of this effort in FY18 and beyond, and to have a discussion about what specific documents are planned to be updated. Engaging the industry to help shape the size and scope of this effort could help focus resources where they are most needed and provide the foundation for an improved fee structure.

Another area that merits close attention is new regulatory initiatives. New initiatives should be thoroughly vetted with demonstrable efficiency, safety, or security benefits before they are started. In the past few years, NRC has spent significant resources in this business line on several projects that have never come to fruition, despite consistent industry feedback that these initiatives were not enhancing safety or security. The cost to Westinghouse is not just in the fees paid, but the time spent reviewing documents, preparing its position, and engaging with the staff. Our observation is that other licensees also spend significant time responding to the staff on these issues. Similarly, Westinghouse suggests that NRC consider what current regulatory initiatives can be eliminated without impacting safety or security. For example, NRC recently terminated its efforts to clarify 10 CFR 21 rulemaking and guidance.[4] Westinghouse agrees with the decision to terminate the Part 21 rulemaking/guidance work in the fuel cycle line; however, prior to this decision, significant resources were expended over several years pursuing the effort.

To this end, NRC should consider performing a retrospective review of recent initiatives related to FCFs, to understand the costs associated with activities that ultimately were terminated, or if completed, to evaluate the safety benefits achieved. This review could be used to inform ongoing work and initiatives planned for the future, to help ensure NRC is most effectively applying its resources. Examples of ongoing efforts that should be reviewed in this context include: material control and accounting (MC&A) 10 CFR Part 74 changes, enhanced security for special nuclear material (SNM) 10 CFR Part 73 changes, and the ANS 57.11 Integrated Safety Analysis (ISA) Standard. Pausing to verify the perceived safety or security benefit could help prevent spending resources on projects that do not provide substantial improvements in safety or security.

Westinghouse's experience with its Columbia Fuel Fabrication Facility (CFFF) license renewal application, which is currently under review, suggests that the staff can perform licensing reviews in an efficient manner when appropriate management oversight is applied, as has recently been the case. Licensing budgets should be developed assuming a consistent high level of management engagement. Earlier in the CFFF license renewal process, some elements of the review were very expensive, with little or no visible staff work product. Therefore, Westinghouse suggests the staff conduct a lessons learned review of the CFFF license renewal once the effort is completed to look for generic improvements.

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[3] ML17339A118

[4] SECY-11-0135 (ML112430138), dated September 29, 2011, initiated a Part 21 rulemaking. Per SECY-16-0009 (ML16028A208), dated January 31, 2016, NRC staff was directed to terminate Part 21 rulemaking efforts. However, the SECY allowed staff continuation of guidance development, which continued until the recent decision to terminate the Office of Nuclear Material Safety and Safeguards (NMSS) Part 21 guidance efforts.

In summary, Westinghouse believes that the best option for making changes to how FCF fees are allocated is to first reduce the overall fee base by right-sizing NRC's fuel cycle program. The fees charged to FCFs ought to be commensurate with the relatively low risk profile of this category of licensee. As it currently stands, the Fuel Facilities Business Line has approximately 15 full time equivalents (FTEs) per licensee, which is comparable to the FTE ratio for operating power reactors. This data suggests that reductions are possible if a risk-informed approach is followed. Once the NRC business line is right-sized and there is clarity on how resources are expended to support the various categories of fuel cycle plants, then the time would be right to revisit the calculation of annual fees using real data that reflect the services provided by NRC. Moving forward before those two conditions are met will result in replacing one qualitative system with another one, with no certainty of enhanced fairness.

If you need additional information, please contact Amanda Spalding at 860-731-6734 or spaldiaj@westinghouse.com.

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