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**Via U.S. Mail (Certified)**

Mr. Craig Erlanger, Director  
Division of Fuel Cycle Safety, Safeguards, and Environmental Review  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Re: Supplemental Comments on Fuel Cycle Facility Fee Matrix and Fee Calculation Methodology**

Dear Mr. Erlanger:

As explained in our earlier comments on the NRC's consideration of alternative approaches to the fee matrix, dated January 17, 2018, Honeywell supports the existing fee matrix for fuel cycle facilities. For nearly twenty years, the existing fee matrix has served as a fair and equitable tool for allocating annual fees among fuel cycle facilities based on regulatory effort. The NRC Staff has not identified a compelling need, or justification, for changing the status quo. To the contrary, the NRC Staff's two new proposed alternative fee matrices—like those proposed at the public meeting on December 13, 2017—serve only to shift the burden among fuel cycle facilities, without adequate basis for the changes. These shifts, if implemented, would cause substantial harm to Honeywell and other facilities, without corresponding benefit.

To be sure, Honeywell appreciates the NRC's efforts to address annual fees. However, we believe the NRC Staff's focus should be on identifying ways to decrease the overall costs associated with the fuel cycle facilities business line, rather than merely re-shuffling the allocation of the same level fees among the same group of licensees.

***Background***

The NRC has allocated annual fees using the current matrix since 1999.<sup>1</sup> The NRC's matrix allocates annual fees for fuel cycle facilities based on regulatory effort by listing the processes

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<sup>1</sup> See Final Rule, *Revision of Fee Schedules; 100% Fee Recovery, FY 1999*, 64 Fed. Reg. 31,448, 31,448 (June 10, 1999).

conducted at licensed sites and assigning each process “effort factors” for the associated safety and safeguards activities. The matrix ensures that each facility’s portion of the total cost of the Fuel Facilities Business Line is commensurate with the NRC’s relative regulatory effort expended on the facility.

In December 2017, the NRC Staff held a public meeting to discuss potential changes to the fee matrix as part of its proposed FY18 fee rule. The NRC Staff identified two alternative fee matrices and requested feedback. In its comments dated January 17, 2018, Honeywell opposed any changes to the existing fee matrix, explaining that the NRC Staff had failed to justify changing the status quo. Honeywell observed that “there is no indication that the current fee matrix is inherently flawed or unreasonable.”

Thereafter, the NRC Staff held a second public meeting on March 27, 2018. At the March meeting, the NRC Staff introduced two additional alternative fee matrices for consideration: (1) a matrix similar to the current matrix, but with altered effort factors, and (2) a new matrix based on regulated areas. Neither of these alternatives is preferable to the current method, and neither is adequately justified.

### ***The NRC Should Not Alter Its Existing Fee Allocation Matrix***

Honeywell continues to support the NRC’s continued use of its existing fee matrix for fuel cycle facilities. Honeywell believes that the current fee matrix fairly and equitably distributes the annual costs among fuel cycle facilities based on the NRC’s regulatory effort. In particular, the NRC’s assignment of particular effort factors (0, 1, 5, 10) to each process conducted at licensed sites enables the NRC to reach a reasonably accurate estimation of regulatory effort (and therefore fees).

As indicated, the NRC Staff proposed two additional alternative fee matrices at the March 2018 public meeting. Neither of these alternatives should be adopted. We review each.

First, with respect to the proposed “[c]urrent matrix with revisions,” the NRC Staff does not explain why the revised effort factors (0, 1, 2, and 3) are fair and equitable, much less *more* fair and *more* equitable than the current method. No effort is made to demonstrate that this method, which has a considerably more narrow band of regulatory effort, more closely matches actual regulatory effort than the current approach. For example, this proposal does not take into account that some regulatory activities may be five or ten times more substantial than others, depending on the risks associated with a particular facility type (e.g., special nuclear material compared to source material) or the types of processes employed by the licensee. The net effect, then, of this approach is to force lower-effort facilities—such as Metropolis—to subsidize higher effort facilities. No basis is provided for such a dramatic re-ordering of regulatory effort allocations.

Second, as to the proposed “[m]atrix based on regulated areas,” the NRC Staff fails to explain how comparing regulated areas in any way captures relative regulatory effort. Nor has the NRC Staff explained how it arrived at the conclusion that the listed activities should be weighed equally.

We recognize that these categories align with areas of the NRC's regulatory reviews, but not all areas of review should be treated equally. Under this proposal, for example, the NRC Staff effectively assumes that it expends equal regulatory effort regulating chemical safety, criticality, and cyber security as it does regulating the management and organization. This is certainly not the case. Likewise, there is no ISA guidance specific to Part 40 facilities (and no criticality risks), yet Metropolis is still classified as a "2" for ISA. As with the first new alternative, the effect of the revised matrix is to increase the share of costs allocated to the lowest risk facilities that involve the lowest regulatory effort.

As Honeywell explained in its prior comments, perhaps the best argument against changing the status quo is that the NRC Staff has yet to put forth any rationale to demonstrate that the status quo is flawed. The NRC Staff has not concluded that the fee matrix unfairly distributes costs among fuel cycle facilities. Nor has the Commission. And notably, the NRC Staff has yet to claim that any of its proposed alternatives more fairly allocate costs than the existing fee matrix.

But beyond the fact that the proposed matrices would not improve the status quo, the proposals in fact threaten substantial harm to Honeywell. As the NRC is aware, the nuclear fuel industry is facing tremendous challenges. Critically, as a result of these market conditions, Honeywell has been forced to idle its Metropolis Works Facility. Increasing Honeywell's annual fee by \$500,000, \$1.7 million, or more, as would occur under the various proposals put forth for consideration, would saddle the business with significant new and essentially unrecoverable costs at a critical juncture. Honeywell cannot reasonably make up the difference by selling an additional \$5 million or \$17 million in product (assuming a 10% rate of return) given the size of its business and its pre-existing contracts. In contrast, other fuel facilities—particularly those serving non-commercial markets with very limited alternative suppliers—are better situated to shoulder a higher burden given the inelastic nature of their customers' demand and the prevalent use of rate-of-return contracts.

In sum, the Commission's long-standing fee matrix is a fair and equitable mechanism for allocating fees among fuel cycle facilities based on regulatory effort. It should be retained.

### ***The NRC Should Continue And Expand Its Cost Containment Efforts Relating To The Fuel Facility Business Line***

As Honeywell explained in its initial comments, the best way for the NRC to provide necessary fee relief to the fuel cycle industry is for it to continue its efforts to reduce the costs associated with the Fuel Facilities Business Line.

Although Honeywell appreciates the efforts that the NRC took in FY17 to reduce FTEs, the NRC must continue and intensify these cost containment efforts to ensure that staffing levels are consistent with the actual needs. As it stands, despite the comparatively higher risk profile of the reactor line of business, the seven operating fuel cycle facilities support a higher NRC staff to licensee ratio than the reactor line. Moreover, over the past decade, annual fees for fuel cycle facilities have increased at a rate nearly seven times that of reactors. As the NRC prepares for

the next budget cycle, it should consider *precisely* how many FTEs are *needed* to regulate the Fuel Facilities Business Line, and set fees accordingly. This would be preferable to working backwards by seeking to identify reductions from existing staffing levels.

Consistent with this effort, the Commission should increase transparency so that the public can identify additional opportunities for improvement. As a number of industry members have pointed out, the work papers generated by the Commission lack sufficient detail for the public to ascertain the specific costs that are being recovered through fees, and how these costs are being allocated.

***Conclusion***

Honeywell thanks the NRC Staff for the opportunity to offer supplemental comments. For the reasons stated herein, the Commission should continue to allocate annual fees for fuel cycle facilities using its long-standing fee-matrix.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jeff Fulks', written in a cursive style.

Jeff Fulks  
Plant Manager

Cc: Maureen Wylie, Chief Financial officer  
Marc Dapas, Director, Office of Nuclear Material Safety and Safeguards