



Westinghouse Electric Company
11333 Woodglenn Drive
Suite 202
Rockville, Maryland 20852
USA

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

Direct tel: (301) 881-7040
Direct fax: (301) 881-7043
e-mail: weave1dw@westinghouse.com

LTR-NRC-18-56

August 8, 2018

**Subject: Transmittal of Westinghouse Electric Company Comments on Fuel Facilities Fee Matrix
Following August 1, 2018 Public Meeting**

Westinghouse Electric Company LLC (Westinghouse) appreciates the opportunity to provide comments to NRC following the August 1, 2018 public meeting regarding one of the alternatives for the fuel cycle facility (FCF) fee matrix.¹ This meeting supplemented the earlier public meetings held on December 13, 2017² and March 27, 2018.³ The additional fees-related discussion during the public meeting on April 11, 2018 was also very helpful.⁴ In reviewing NRC's proposed fee matrix alternative described in the slide package for the August 1st public meeting,⁵ the proposed alternative is still not data-driven and would lead to an almost \$1M step increase in the annual fee for the Columbia Fuel Fabrication Facility (CFFF), a Category III FCF with a very low risk profile, with no change in NRC's regulatory activities covered under 10 CFR Part 171. Westinghouse's previous correspondence on this issue noted that the CFFF annual fee has essentially tripled over the past decade from \$900K to \$2.7M (based on the fiscal year 2018 (FY18) fee rule); if the August 1st public meeting fee matrix were applied to FY18, the CFFF annual fee would have quadrupled.^{6,7} In addition, the lack of transparency and accountability for how NRC is expending its resources in the Fuel Facility Business Line (FFBL) continues to be a source of frustration. As presented in the August 1st public meeting, the staff has responded to these concerns with a proposal that would increase the Category III FCF annual fee by almost another \$1M. It should come as no surprise that we feel like our concerns have not been heard. Our specific concerns relative to the FCF fee matrix discussed during the August 1st public meeting are contained in the enclosure to this letter.

In many ways this staff initiative on fees is indicative of our fundamental concern with this program, as documented in previous Westinghouse letters on this topic, i.e., that the staff has spent a significant effort on another issue with little or no nexus to safety or security and developed a proposal that unnecessarily

¹ ML18200A391

² ML17339A439

³ ML18082A924

⁴ ML18089A368

⁵ ML18207A291

⁶ Westinghouse Letter LTR-NRC-18-16, "Transmittal of Westinghouse Electric Company Comments on the Fiscal Year 2018 Proposed Fee Rule [Docket ID NRC-2017-0026]," February 22, 2018, ML18057B551.

⁷ ML18207A291, slide 13

punishes the industry.^{8,9} At the same time, the staff has avoided dealing with the more pressing issues of efficiency and effectiveness. The proportion of the FFBL effort spent directly supporting licensees through licensing or inspection has been on a steady decline in both absolute and relative terms. This results in a greater proportion of staff available to work on staff initiatives. We remain hopeful that the Commission or NRC's Congressional oversight will ultimately correct this situation. The staff's basic oversight and licensing programs can be improved, but are functioning reasonably well. However, staff initiatives (such as revisiting the fee matrix) tend to be heavy handed, expensive to implement, and not commensurate with the perceived benefit. Simply sharing budget execution data would be a great step towards providing the needed transparency and forming the basis for a dialog about industry's perspective on regulatory priorities. NRC's transformation initiative presents an opportunity for NRC and industry to work together to identify safety and security concerns and develop appropriate solutions that are effective without being overly prescriptive.

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



Douglas Weaver
Vice President
Global Nuclear Regulatory Affairs

Enclosure: Specific Comments on Fee Matrix Alternative Presented in August 1st Public Meeting

cc:

Brian Smith
Robert Johnson
Marilyn Diaz
Maureen Wylie
Marc Dapas
Scott Moore
Mark Lesser
Margaret Doane

⁸ Westinghouse Letter LTR-NRC-18-6, "Transmittal of Westinghouse Electric Company Comments on Fuel Facilities Fee Matrix," January 16, 2018, ML18029A424.

⁹ Westinghouse Letter LTR-NRC-18-24, "Transmittal of Westinghouse Electric Company Comments on Fuel Facilities Fee Matrix Following March 27, 2018 Public Meeting," April 19, 2018, ML18110A115.

Enclosure 1

Specific Comments on Fee Matrix Alternative Presented in August 1st Public Meeting

Based on the discussions held during the August 1st public meeting, it is understood that the NRC staff will deliver a non-public SECY paper to the Commission, which will contain all five fee matrix alternatives that have been presented over the course of the three aforementioned public meetings (i.e., December 13, 2017; March 27, 2018; and August 1, 2018). Because there is still a lack of data supporting the proposed alternatives, Westinghouse does not see any of them as an improvement to the current methodology. Specifically related to the most recent proposal, the numerical values used for the effort factors were calculated based on the FFBL enacted budget, which provides no insight into how this information corresponds with the executed budget. It would be useful to know what NRC actually spent in each regulated area in a given year to ensure that using the enacted budget gives an accurate estimation of the effort for each regulated area. Additionally, the calculations shown on Slide 11,¹⁰ which determine the range of effort factors for each area based on its portion of the overall FFBL budget, again do not seem to tie the matrix to the correct data. The effort factor range for each area (e.g., 10-5-1, 3-2-1, etc.) should be based on the difference in effort for NRC to regulate for high, moderate, and low FCFs in a given regulated area, not the proportion of the overall FFBL budget that this area consumes.

Westinghouse also disagrees with some of the effort ratings for Category III FCFs, as documented in Slides 6-9 of the August 1st public meeting slide package. Specifically:

- Integrated Safety Analysis (ISA) effort was moderate, even though the licensees have approved ISAs and NRC no longer reviews licensees' annual ISA Summary submittals. Westinghouse proposes that ISA should be rated low for Category III FCFs.
- Chemical Safety effort was moderate due to ongoing effort to develop generic guidance; however, the most recent version of the Cumulative Effects of Regulation (CER) documents no action from NRC on this topic.¹¹ Westinghouse proposes that Chemical Safety should be rated low for Category III FCFs.
- Decommissioning should be rated low for Category III FCFs – all FCFs have established Decommissioning Funding Plans (DFPs), and the effort to review triennial updates is covered via 10 CFR 171 hourly fees.
- Information Security for Category III FCFs was low; this area should be revised to No Effort.
- Cyber security rulemaking is currently with the Commission. If approved by the Commission, it should be adjusted to moderate for Category III FCFs. If the Commission votes to end the rulemaking, then the effort should be modified to No Effort accordingly.

¹⁰ ML18207A291

¹¹ ML18191B114