

STATEMENT SUBMITTED
BY THE
UNITED STATES NUCLEAR REGULATORY COMMISSION

TO THE
SUBCOMMITTEE ON TRANSPORTATION, INFRASTRUCTURE AND NUCLEAR SAFETY
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

CONCERNING
PRICE-ANDERSON ACT RENEWAL

PRESENTED BY
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Mr. Chairman, Members of the Subcommittee, I am pleased to appear before you today to present the views of the Nuclear Regulatory Commission (NRC) on extending and amending the Price-Anderson Act.

As you know, legislation will be needed to extend the Price-Anderson Act. The Act, which expires on August 1, 2002, establishes a framework that provides assurance that adequate funds will be available to compensate the public in the event of a nuclear accident and sets out a process for considering nuclear liability claims. Without the framework provided by the Act, new private-sector participation in nuclear power would be discouraged because of the risk of potentially large liability claims if such an accident were to occur.

I am here to deliver the strong and unanimous recommendation of the Commission that the Price-Anderson Act be renewed with only minor modifications. However, I would like to preface my statement of that position with the reminder that the Commission's primary concern is public health and safety. We are not a promotional agency. Our mission is to ensure the safe use of nuclear power and materials. We can look back on a successful history of safe operation and intend to exercise vigilance to maintain or improve on this record of safety. Nonetheless, it remains important to assure that if an improbable accident should occur, the means are provided to care for the affected members of the public.

As you know, Congress first enacted the Price-Anderson Act in 1957, nearly a half century ago. Its twin goals were then, as now:

- ! to ensure that adequate funds would be available to the public to satisfy liability claims in a catastrophic nuclear accident; and
- ! to permit private sector participation in nuclear energy by removing the threat of potentially enormous liability in the event of such an accident.

On original passage the Congress provided a term during which the Commission could extend Price-Anderson coverage to new licensees and facilities. When that term expired, the Congress then, and repeatedly since, decided that the nation's energy policy would be served by extending the Price-Anderson Act so that coverage would be available for newly licensed reactors. This action preserved the option of private sector nuclear power and assured protection of the public. At this point, in order to avoid confusion, I should note that Price-Anderson coverage for NRC licensees is granted for the lifetime of the covered facilities and does not "expire" in 2002. Thus, in any event, Price-Anderson coverage with respect to already licensed nuclear power reactors will continue and will afford prompt and reasonable compensation for any liability claims resulting from an accident at those facilities.

While Congress has amended the Price-Anderson Act from time to time, it has done so cautiously so as to avoid upsetting the delicate balance of obligations between operators of nuclear facilities and the United States government as representative of the people.

Perhaps the most significant amendments to date were those that effectively removed the United States government from its obligation to indemnify any reactor up to a half billion dollars and instead placed that burden on the nuclear power industry. Congress achieved this by mandating in 1975 that each reactor greater than 100 MWe, essentially each reactor providing power commercially, contribute \$5 million to a retrospective premium pool if and only if there were damages from a nuclear incident that exceeded the maximum commercial insurance available. The limit of liability was then \$560 million. Government indemnification was phased out in 1982 when the potential pool and available insurance reached that sum.

In 1988, Congress increased the potential obligation of each reactor in the event of a single accident at any reactor to \$63 million (to be adjusted for inflation). The maximum liability insurance available is now \$200 million. When that insurance is exhausted each reactor must pay into the retrospective premium pool up to \$83.9 million, as currently adjusted for inflation, if needed to cover damages in excess of the sum covered by insurance. The \$83.9 million is payable in annual installments not to exceed \$10 million. Today, the commercial insurance and the reactor pool together would make available over \$9 billion to cover any personal or property harm to the public caused by an accident.

In 1998, as mandated by Congress, the Nuclear Regulatory Commission submitted to the Congress its report on the Price-Anderson system. The report included a concise history and overview of the Price-Anderson Act and its amendments as well as an update on legal developments and events pertaining to nuclear insurance and indemnity in the last decade. Congress had also required the NRC to address various topics that relate to and reflect on the need for continuation or modification of the Act: the condition of the nuclear industry, the state of knowledge of nuclear safety, and the availability of private insurance.

After considering pertinent information, the Commission considered what its recommendations should be. It concluded then that it should recommend that Congress renew the Price-Anderson Act because it provides a valuable public benefit by establishing a system for the prompt and equitable settlement of public liability claims resulting from a nuclear accident. That, as I said at the outset, remains today the strongly held position of the Commission.

Having noted that substantial changes in the nuclear power industry had begun and could continue, the Commission believed it would be prudent to recommend renewal for only 10 years

rather than the 15-year period that had been adopted in the last reauthorization so that any significant evolution of the industry could be considered when the effects of ongoing changes would be clearer. Notwithstanding that view, the Commission recommended that the Congress consider amending the Act to increase the maximum annual retrospective premium installment that could be assessed each holder of a commercial power reactor license in the event of a nuclear accident.

The NRC suggested that consideration be given to doubling the ceiling on the annual installment from the current sum of \$10 million to \$20 million per year per accident. The total allowable retrospective premium per reactor per accident was to remain unchanged at the statutory “\$63 million” adjusted for inflation. (It is now \$83.9 million as so adjusted). The Commission recommended consideration of an increase to \$20 million because it then appeared likely that in the coming decade a number of reactors would permanently shut down. The effect of these shutdowns would have been to reduce the number of contributors to the reactor retrospective pool. Fewer contributors would, in turn, reduce the funds that, in the event of a nuclear accident, would become available each year to compensate members of the public for personal or property damage caused by an accident. Increasing the maximum annual contribution available from each reactor licensee would provide continuing assurance of “up front” money to assist the public with prompt compensation until Congress could consider whether to enact additional legislation providing further relief, should it be needed.

Further developments in the electric generation industry since the 1998 report to Congress have led the Commission to review its 1998 recommendations and to re-evaluate its recommendation that Congress consider increasing the annual installment to \$20 million. There is now a heightened interest in extending the operating life for most, if not all, of the currently

operating power reactors, and some power companies are now examining whether they wish to submit applications for new reactors or complete construction of reactors that had been deferred. As a result, contrary to our former recommendations, the Commission does not believe that there is now justification for raising the maximum annual retrospective premium of \$10 million. This level is adequate and does not need to be changed.

In summing up, I would like to leave these thoughts with you. To date, the United States government has not paid a penny for claims against nuclear power plant licensees. In the event a serious accident were to occur, over \$9 billion will be available to pay compensation for any personal injury or offsite property damage. The money will come from insurance policies bought by the industry and from retrospective premiums that will be paid by industry. If those funds are inadequate, Congress will be called upon to decide what action is needed to provide assistance to those harmed. We believe the public is protected by the broad base of prompt funding. The Price-Anderson Act further aids the public by establishing important procedural reforms for claims arising from nuclear accidents. It channels liability to the licensee, establishes a single Federal forum for all claims, eliminates the need to prove fault, requires waivers of other significant defenses, makes prompt settlements possible, and, if litigation is needed, establishes legal management processes to assure fairness and equity in distribution of damage awards.

The Commission reiterates its support for the Price-Anderson Act Reauthorization.

Thank you Mr. Chairman. I welcome your comments and questions.