

Resolution Regarding Guiding Principles for Management and Disposal of High-Level Nuclear Waste

WHEREAS, The National Association of Regulatory Utility Commissioners (NARUC) has been actively involved in the national policy and program to permanently dispose of high-level radioactive nuclear waste, including spent nuclear fuel from commercial nuclear plants, with keen interest and frustration since 1982; *and*

WHEREAS, The Nuclear Waste Policy Act of 1982 (NWPAct) established that the U.S. Department of Energy (DOE) shall enter into contracts to dispose of spent nuclear fuel from commercial nuclear plants in return for the payment of fees by the generators or owners of such spent fuel; *and*

WHEREAS, Utility companies serving customers with electricity generated from civilian nuclear reactors hold those contracts, pay the fees and pass the cost of such fees on to ratepayers at the current level of approximately \$750 million per year in deposits to the Nuclear Waste Fund; *and*

WHEREAS, The Nuclear Waste Fund is a separate fund established in the U.S. Treasury to finance radioactive waste disposal activities and fee deposits, plus interest earnings, since 1982 less appropriations leave a balance of \$28.8 billion as of October 2012; *and*

WHEREAS, What DOE considers to be adequate revenue is being collected for waste disposal, but only a small fraction gets appropriated each year; *and*

WHEREAS, DOE failed to meet the mandate of the NWPAct to begin accepting spent nuclear fuel for disposal in 1998, and there is no schedule of when DOE might begin receipt of any spent fuel; *and*

WHEREAS, Court decisions and settlement agreements stemming from DOE's breach of the waste disposal contracts continue to add to the federal liability that DOE estimates will reach \$22.3 billion by 2017; *and*

WHEREAS, Costs to the federal government, and hence, U.S. taxpayers, due to liability for partial breach of contract suits, increase by approximately \$500 million from the Judgment Fund for each additional year after 2017 that DOE fails to begin accepting spent fuel for disposal; *and*

WHEREAS, The decommissioned nuclear reactors that exist at nine sites in eight States impose costs on ratepayers without equivalent benefits and prohibit economic reuse of the sites; *and*

WHEREAS, So far, over eighty percent of operating reactors have been relicensed or are pending relicensing by the Nuclear Regulatory Commission, adding 20 years to the commercial service life of each reactor; *and*

WHEREAS, Comprehensive nuclear waste legislation intended to put the troubled program back on track has been introduced in Congress many times, but has not been enacted; *and*

WHEREAS, The most abrupt change in direction for the disposal program came in 2009 when President Obama decided building a repository at Yucca Mountain was not a “workable option” and took actions to terminate the project there despite the fact that the repository at Yucca Mountain was approved by law; *and*

WHEREAS, The Secretary of Energy appointed the Blue Ribbon Commission on America’s Nuclear Future (BRC) which reviewed the waste situation and made its recommendations to the Secretary in early 2012; *and*

WHEREAS, The Nuclear Waste Principles adopted by NARUC first in 1994 and revised in 1997, 2000 and 2008, bear re-examination for continued validity in view of the evolving policy and program activities, and the Subcommittee on Nuclear Issues-Waste Disposal having conducted such a review in 2012; *now, therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened at its 2013 Winter Committee Meeting in Washington D.C., adopts the following principles to guide NARUC representation with the Administration and Congress:

[1] *America Needs a Permanent Solution to Nuclear Waste Disposal*

- NARUC supports the national policy established by Congress in 1982 in the NWPAA that the best, long-term solution to isolating nuclear waste from the environment is permanent disposal in a geologic repository.
- Reprocessing of spent fuel is worthy of research, but even if determined to be technically and economically feasible, will not eliminate the need for a permanent repository.
- The Administration and the Nuclear Regulatory Commission should comply with the law passed in 2002 approving Yucca Mountain as the repository site by completing the licensing process.

[2] *The Nuclear Waste Fund Must Be Managed Responsibly and Used Only for Its Intended Purposes*

- The imbalance between Nuclear Waste Fund collections and appropriations must be corrected. In today’s fiscal climate, it will be a challenge to re-start funding a waste program that has had zero funding the past three years even though “dedicated” fee revenue continues to flow steadily to the Fund.
- Full access to the corpus of the Nuclear Waste Fund must be assured to the DOE to support achievement of repository program milestones.

- The DOE, not electric utility ratepayers, must be accountable for the financial consequences of its failure to begin accepting waste in 1998.
- One of the tasks for DOE in 2013 is to conduct a fee adequacy assessment that can credibly show that repository, storage, and benefit expenses of the re-started waste management program can be supported by annual fee revenue, earned interest, and the certainty of the “repayment” of the Waste Fund corpus in full.
- The Nuclear Waste Fund must be used only for purposes intended in the Nuclear Waste Policy Act and Congress should not divert the fund to other uses.

[3] *Some Consolidated Interim Storage Is Needed Although the Amount, Basis of Need and Duration Should be Determined*

- Current reactor-site spent fuel storage is safe but quantities to be stored have exceeded or will soon reach existing capacity limits. Retaining spent fuel indefinitely at reactor sites was never intended and is unacceptable.
- Continued storage at permanently shutdown plants is unacceptable because it imposes costs on ratepayers without equivalent benefits and prohibits economic reuse of the site, whereas, relocation and consolidation would likely reduce the government’s liability and improve security. The BRC report cites a study that contends that the savings from consolidated storage for this stranded spent fuel would be enough to pay for the cost of the storage facility.
- On an interim basis, only, pending development of full capacity of the permanent repository, it is better to store spent fuel at one (or more) central location(s) than to leave it at reactor sites. DOE and the utilities should pursue any and all such possibilities with a sense of urgency.
- The BRC Report recommendations for consolidated interim storage represent a new use for the Nuclear Waste Fund that should be authorized only after consideration of the costs and benefits involved.
- Proposals to have DOE assume responsibility (“take title”) for spent fuel at reactor sites and continue to store it on-site indefinitely should not be implemented.
- DOE must honor its contracts with utilities to remove spent fuel so ratepayers will not be charged for both onsite storage and Nuclear Waste Fund fees indefinitely.

[4] *The Management of Federal Responsibilities for Integrated Used Fuel Management Could be More Successful if Assigned to a New Organization with a New Approach to Siting and More Assured Access to Financing.*

- Whether DOE was unable to achieve its NWPA responsibilities due to mismanagement or to factors beyond its control can be debated, but the BRC makes a sound case for creating a new organization, outside DOE, with sole responsibility to manage nuclear waste. NARUC supports this concept, which would require legislation.
- Since the former waste management organization was disbanded in 2010, a new organization would be needed even if responsibility is retained by DOE.
- The new organization should be charged to engage with States and local governments in a more collaborative manner that can be guided by a negotiated consent agreement among the involved parties, whether for storage or disposal facilities.
- The NWPA already has provisions for use of the Nuclear Waste Fund to provide benefits to affected States and localities as an incentive to host a repository that could be amended if a benefits agreement is negotiated that advances the siting process.
- NARUC should follow up on the BRC recommendation that a public utility commissioner be appointed to an oversight board having responsibility to evaluate the adequacy of the fees.

[5] *NARUC Must Be an Active Stakeholder on Nuclear Waste Management and Disposal*

- NARUC can best represent the ratepayer interests through close communications with the DOE and any other federal agencies involved in the nuclear waste program. DOE has funded the NARUC program office in Washington for this purpose and should continue to do so.

Sponsored by the Committee on Electricity

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