

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

WHEREAS, The National Association of Regulatory Utility Commissioners has been an active participant in the debate over national policy relating to the permanent disposal of high-level radioactive nuclear waste, including the spent (or used) nuclear fuel from commercial nuclear plants now situated in 34 States, with keen interest and intense frustration since 1982; *and*

WHEREAS, The Nuclear Waste Policy Act of 1982 (the Act) required the U.S. Department of Energy (DOE) to enter into contracts for the disposal of spent nuclear fuel from commercial nuclear plants in return for the payment of fees by the generators using or the entities owning such spent fuel; *and*

WHEREAS, Utility companies serving customers with electricity generated from civilian nuclear reactors pass the cost of such fees onto ratepayers at the current level of approximately \$750 million per year, which is supposed to be deposited in the Nuclear Waste Fund for use in the development, construction, and operation of a permanent repository for the storage of nuclear waste; *and*

WHEREAS, The Nuclear Waste Fund is a separate fund established in the U.S. Treasury to finance radioactive waste disposal activities that has accrued over \$27 billion in principal and “interest” between 1982 and June 2007; *and*

WHEREAS, Adequate revenue is being collected from ratepayers to support an appropriate disposal program, but only a small fraction of the monies paid in by ratepayers to support the nuclear waste program is appropriated for waste disposal activities each year; *and*

WHEREAS, The DOE failed to meet the Act’s mandate to begin accepting spent nuclear fuel for disposal in 1998, so that spent nuclear fuel remains in onsite storage at commercial reactor sites around the country; *and*

WHEREAS, DOE currently describes 2017 as the “best achievable” date for the beginning of waste acceptance; *and*

WHEREAS, Court decisions and settlement agreements stemming from DOE’s breach of its waste disposal contracts continue to increase the size of the federal government’s damage liability resulting from DOE’s failure to begin accepting spent fuel for disposal in a timely manner; *and*

WHEREAS, The cost to the taxpayers of DOE’s breach of its agreement to begin to accept spent nuclear fuel for disposal by 1998 will increase by approximately \$500 million 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 additional costs on ratepayers without providing any offsetting benefits, such as might arise from the economic reuse of the decommissioned reactor sites; *and*

WHEREAS, So far, 48 operating reactors have been relicensed by the Nuclear Regulatory Commission (NRC), adding 20 years to the commercial service life of each reactor; *and*

WHEREAS, The NRC projects it could receive as many as 28 applications for combined construction and operating licenses for new commercial reactors by 2009; *and*

WHEREAS, Comprehensive legislation intended to put the nuclear waste program back on track by reforming the manner in which monies contained in the Nuclear Waste Fund are appropriated for use in the repository program has been introduced in Congress many times, but has not been enacted; *and*

WHEREAS, The administration and Congress will face additional challenges in addressing nuclear waste disposal issues as the DOE's liability for breach of its waste disposal contracts with nuclear generators continues to increase and any new reactors enter commercial operation; *and*

WHEREAS, The Nuclear Waste Principles initially adopted by NARUC in 1994, and revised in 1997 and 2000, should be reexamined to ensure their continued validity in view of a constantly evolving nuclear waste disposal landscape; *and*

WHEREAS, The Subcommittee on Nuclear Issues-Waste Disposal conducted a review of the Nuclear Waste Principles in 2008 and concluded that the Principles needed to be updated; *now, therefore, be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners, convened in its 2008 Winter Meetings in Washington, D.C., adopts the following principles to guide NARUC's activities concerning the nuclear waste disposal issues that need to be addressed by the federal government:

I. America Needs a Permanent Solution to Nuclear Waste Disposal

- NARUC supports the national policy established by Congress in 1982 in the Nuclear Waste Policy Act that the best, long-term solution to isolating nuclear waste from the environment is permanent disposal in a geologic repository.
- The repository program established in the Nuclear Waste Policy Act must be vigorously pursued and the construction application submitted in 2008.
- The DOE, not electric utility ratepayers, must be accountable for the financial consequences of its failure to begin accepting waste in 1998.
- The Environmental Protection Agency must promptly adopt radiation standards for the repository that adequately protect public health and are reasonably attainable.
- Public education on nuclear waste storage and transportation is vital to increase understanding and public confidence.

- Nuclear waste transportation planning must be effectively coordinated among all affected federal, tribal, State and local governments. The consultation process must be timely and transparent and result in an acceptable route from each reactor storage site to the 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.

II. 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.
- Full access to the corpus of the Nuclear Waste Fund must be granted to DOE to support achievement of repository program milestones.
- The Nuclear Waste Fund fee must not exceed one mill per kWh unless a clear need is demonstrated and both houses of Congress approve.
- The Nuclear Waste Fund must be used only for purposes intended in the Nuclear Waste Policy Act and neither DOE nor Congress should divert the fund to other uses.

III. Equitable Interim Measures are Needed Pending Permanent Solution

- The storage of spent fuel at reactor sites in accordance with current practices is safe, but the quantities to be stored at certain reactor sites has exceeded or will soon reach existing capacity limits. Retaining spent fuel indefinitely at reactor sites is contrary to the clear intent of the Act and is unacceptable.
- Continued storage of spent nuclear fuel at permanently shut down plants is unacceptable because it imposes additional costs on ratepayers responsible for paying the costs associated with such onsite storage without offsetting benefits and prevents economic reuse of the site, while transfer of spent nuclear fuel from such sites to appropriate, centralized interim storage would likely reduce the government's liability for failure to begin waste acceptance in a timely manner and improve public safety.
- On an interim basis, pending the availability of the full capacity of the proposed permanent repository, it is better to store spent fuel at central interim storage sites than to leave it in onsite storage indefinitely. DOE and the utilities should pursue any and all such possibilities for the development of centralized interim storage with a sense of urgency.
- Avoidance of unnecessary costs and risks, duplication of effort, inefficiency in transportation planning, and protracted siting processes, as well as proximity to the proposed permanent storage facility, makes Yucca Mountain worthy of consideration as the interim storage site.

- Private temporary storage, away from reactor sites, at a location or locations licensed by the NRC, should be encouraged as an interim solution, but not as a substitute for the construction, opening, and operation of a permanent repository.
- While NARUC supports efforts by DOE and the utilities to pursue realistic opportunities to obtain central interim storage away from reactor sites, the Nuclear Waste Fund should not be used to pay for interim storage so long as the present inequitable appropriations process, in which funds contributed by ratepayers in order to support the development of the permanent repository are diverted for other purposes, continues to exist.
- Proposals to have DOE assume responsibility (“take title”) for spent fuel at reactor sites and to continue to store such waste onsite indefinitely are unfair to the ratepaying public and should not be implemented.
- DOE should honor its contracts with utilities to remove spent fuel from reactor sites so ratepayers will not be charged indefinitely for both onsite storage and Nuclear Waste Fund fees.

IV. Spent Nuclear Fuel Management is an Important Consideration in Development of Additional Nuclear Power Plants

- Increasing interest in the use of nuclear energy as a response to growing demand for electricity and the desire to minimize greenhouse gas emissions accentuates the need for the implementation of a permanent solution to the spent fuel problem.
- While it may take approximately 10 years to license, build, and place new reactors into commercial service and while cooling pool capacity at such sites will not reach its limit for many years after that, the nation should not further delay resolving the critically important economic and environmental issues associated with spent fuel management.
- A permanent solution for the nuclear waste management and disposal issue should be implemented without delay in order to mitigate the environmental and economic risks and costs associated with investment in new nuclear reactors.

V. NARUC Must Be an Active Stakeholder on Nuclear Waste Disposal

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

Sponsored by the Committee on Electricity

Adopted by the NARUC Board of Directors February 20, 2008