

November 14, 2012

The Honorable Jeffrey Zients
Acting Director
Office of Management and Budget
The White House
725 17th Street, NW
Washington, DC 20503

Dear Mr. Zients:

On behalf of the commercial nuclear energy industry, the Nuclear Energy Institute, the Edison Electric Institute, the National Rural Electric Cooperative Association and the American Public Power Association submit these comments regarding the sequestration and annual fees charged to U.S. Nuclear Regulatory Commission (NRC) licensees and applicants.

The President ordered the NRC to conduct a comprehensive review of the safety at America's nuclear energy facilities after the accident at the Fukushima Daiichi nuclear plant in Japan. In addition to significant steps taken proactively by the industry at these facilities, the review has led to the implementation of regulations that impact nearly every aspect of reactor operations. At the same time, the NRC is approving licenses to add more electricity to the grid through uprates of electric generating capacity at current reactors and overseeing the construction of five new reactors at three sites in Georgia, South Carolina and Tennessee. The nation's economy and environment benefit from a fully functioning and efficient nuclear regulatory agency.

We respectfully remind you that the Nuclear Regulatory Commission is reimbursed for 90 percent of its budget by user fees assessed to industry through 10 CFR Part 170 and 10 CFR Part 171. Under Part 170, the agency assesses fees for the cost of providing individually identifiable services to specific applicants and licensees. Under Part 171, the NRC collects an annual assessment to cover other generic and other regulatory costs. Specifically, the NRC is authorized by Congress to collect annual fees from licensees (Part 171) that "[t]o the maximum extent practicable . . . have a reasonable relationship to the cost of providing regulatory services . . ." and must be "fairly and equitably" allocated among licensees. (42 USC 2214(c)(3)). The proposed NRC total fee recovery for fiscal 2013 is \$924.8 million.

Your office recently released details of spending subject to the automatic budget sequester.¹ The report calls for an \$85 million reduction in the NRC's budget and a \$1 million reduction in the NRC

¹ As required under the Sequestration Transparency Act of 2012 (STA) (P.L. 112-155)

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Office of the Inspector General for FY2013. The report clearly says that the administration does not support these cuts, but that there may be no choice but to implement them, absent congressional action on the budget.

Instead, we urge you to apply the sequester to appropriated funds applicable to FY2013 programs and projects." This approach is more equitable for the companies that pay the user fees for regulatory oversight. The NRC's FY2013 budget reflects an increase in the agency's regulatory activities for operating reactors, spent fuel storage and transportation, decommissioning, low-level radioactive waste management, and Fukushima Near-Term Task Force recommendations and regulatory actions. A sequester of 8.2 percent of \$128.5 million net appropriations, or \$10.5 million, would not require the NRC to reduce or eliminate the above-mentioned regulatory services and obligations.

In addition, we are concerned that the NRC would continue to recover fees from licensees at a rate required by the recently passed Continuing Resolution (P.L 112-175), which would add to the budget surplus at the agency. In testimony earlier this year, the agency reported it had \$32 million in unobligated balances from prior years' appropriations. The industry has recommended to Congress and the NRC that those funds support additional Fukushima-related work that has been estimated at nearly \$30 million in new spending. Collecting fees from licensees without an expectation of regulatory service becomes a tax on the industry at a time when our customers can least afford it.

Strong federal regulatory oversight is a vital element of the industry and government's commitment to operating America's nuclear energy facilities safely and securely. The agency's budget, supported by industry user fees, should not be subject to the budget sequester cuts as proposed in your report to Congress.

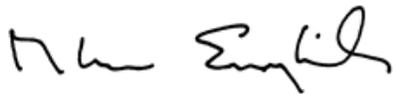
Sincerely,



Marv Fertel
Nuclear Energy Institute



Tom Kuhn
Edison Electric Institute



Glenn English
National Rural Electric Cooperative Association



Mark Crisson
American Public Power Association

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Cc: Heather Zichal, Deputy to the President for Energy and Climate Change
NRC Chairman Allison M. Macfarlane
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