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on Fees Development and Communications
Meeting 2

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING ON THE REQUEST FOR INFORMATION ON

FEE DEVELOPMENT AND COMMUNICATIONS

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WEDNESDAY

APRIL 13, 2016

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ROCKVILLE, MARYLAND

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The Public Meeting convened in the

Commissioners' Hearing Room at the Nuclear Regulatory

Commission, One White Flint North, 11555 Rockville

Pike, at 3:30 p.m., Lisa Clark, Facilitator,

presiding.

PRESENT:

LISA CLARK, Facilitator

MAUREEN WYLIE, NRC Chief Financial Officer

BILLY BLANEY, NRC Office of the Chief

Financial Officer

MICHELE KAPLAN, NRC Office of the Chief

Financial Officer

CHRISTINE GALSTER, NRC Office of the Chief

Financial Officer

JEREMY SUTTENBERG, NRC OGC

ALSO PRESENT:

JOHN BUTLER, NEI

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P R O C E E D I N G S

3:31 p.m.

MS. KAPLAN: Okay. Welcome to our meeting on the request for information on Fees Development and Communication.

I'm Michele Kaplan. I am the Licensee Policy Team Leader. I welcome everyone that's participating in person, on the phone and in the webinar.

What I'd like to do very briefly is to turn things over to Lisa Clark to go over our ground rules.

FACILITATOR CLARK: Thank you very much. And welcome everybody. Again, my name is Lisa Clark and I'm going to be the Facilitator for today's meeting.

The purpose of our meeting today is to discuss the request for information associated with the development of the Agency's fees and communications. This is a Category 2 meeting in which the public is invited to participate to discuss regulatory issues.

Our meeting this afternoon will begin with a presentation by Michele Kaplan. She's our team leader for our Licensee Fee Team here at the NRC. We

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1 will then open up the meeting for questions and
2 answers.

3 Our meeting today is being transcribed.
4 Although we are recording the meeting, we would ask
5 that you submit any written information or comments
6 you would like us to consider and we'll provide you
7 information later in the meeting on how to do that.
8 In order to insure we have an accurate and complete
9 transcript I'd ask that you please identify yourself
10 when asking a question and also please use the
11 microphones in the room so everybody on the phones can
12 hear.

13 We have an operator assisting our
14 telephone bridge line today. She will provide
15 information to our meeting participants on the phone
16 on how to ask questions if you would like to do so.

17 For those of you in the room today, I'd
18 like to remind you to complete our meeting feedback
19 forms. They are also available on line for the
20 telephone participants. You can find them on the NRC
21 public website. You simply log on to the website,
22 locate the meeting under our Public Meeting Schedule
23 and you will find the feedback form there.

24 Now, I would like to turn the meeting back
25 to Michele.

1 MS. KAPLAN: Thank you, Lisa.

2 Each year the NRC determines its hourly,
3 annual and flat fees via the rulemaking process. In
4 conjunction with Project AIM, the Office of the CFO is
5 now undertaking an effort to simplify how the NRC
6 calculates fees, improves transparency and improves
7 the timeliness of communications of fee changes. As
8 part of that effort, we are requesting information
9 from the public on issues related to the development
10 and communication of Agency fees.

11 Our Request for Information was published
12 in the Federal Register on March 22nd of this year.
13 Our goal is -- the focus of this information gathering
14 effort is to obtain information to consider when
15 evaluating possible changes to how we develop our
16 fees. Potential improvements identified during this
17 activity may be implemented in a variety of ways
18 including during the development of future annual fee
19 rules or by making additional information available on
20 our website such as additional work papers or other
21 supporting documentation.

22 Particular Area of Focus. The Federal
23 Register notice that we issued asked the following
24 questions. What are some specific ways that the NRC
25 can improve the public's understanding of its fees and

1 how those fees relate to the Agency's budget? How can
2 we communicate this information effectively?

3 Two. What are some specific improvements
4 that could be made to the fee-related work papers or
5 forms? Currently, we have work papers that are posted
6 to our website to support the annual fee rule. What
7 else can we do? What else can we provide to our
8 stakeholders?

9 Three. How can the NRC improve its
10 explanation of any changes to the annual fees or the
11 hourly rates in the annual fee rule? This year we
12 streamlined the fee rule by removing redundant
13 language to increase shareholder understanding.

14 Four. What additional information can the
15 NRC provide along with the proposed fee rule and work
16 papers to help explain how the NRC determines its
17 fees?

18 Five. Given the statutory requirement to
19 base the NRC fees on the annual appropriation enacted
20 by Congress are there any ways that the NRC can
21 improve the timeliness of completing the annual fee
22 rule or the communication of fee changes? This year
23 the proposed fee rule incorporated the enacted
24 appropriation. Last year the proposed fee rule was
25 based on the current estimate. The final rule was

1 based on the appropriation. So this year we did
2 improve the timeliness of the information in the fee
3 rule by using our enacted appropriation.

4 Are there activities that the NRC should
5 convert from fee-billable to non-fee-billable or vice
6 versa and why such as a specific service to a fee
7 class as an example?

8 Are there activities or fee classes that
9 are more suited to flat fees rather than hourly fees?
10 Flat fees are based on an analysis of the average
11 amount of time it takes to perform a task. Flat fees
12 provide predictability. How can we provide more flat
13 fees?

14 Are the current fee classes and categories
15 appropriately defined? Do we need to add
16 clarification?

17 Nine. Is there general information that
18 the NRC can add to its public website that would
19 increase understanding of our fee development and
20 invoicing processes? What are we missing?

21 So, in conclusion, in addition to the
22 specific questions that I just mentioned we would
23 welcome input on other issues related to fee
24 development and transparency. The responses to the
25 Request for Information are requested by May 6 of this

1 year. And we plan to complete a Commission Paper by
2 August 15th of this year. The paper will contain
3 recommendations for potential improvements for the
4 coming year and future years.

5 Thank you in advance for your support for
6 this effort. I'd like to turn it over to Maureen.

7 MS. WYLIE: Thank you very much, Michele.
8 And I'd like to simply add that please don't feel
9 constrained by these questions. If you have ideas
10 we'd love to take them and we'd also love to get
11 whatever further ideas you get in writing through the
12 process as described on the slides.

13 Do we have a link for people to --

14 MS. KAPLAN: We have a slide that we're
15 going to put up when Lisa takes over --

16 MS. WYLIE: At the end.

17 MS. KAPLAN: -- at the Q&A session, right.
18 And it has the address where they can send in the
19 comments. It has the various ways. Okay. Yes,
20 there it is. It's up right now.

21 MS. WYLIE: Fabulous. All right. So,
22 let's start the questioning and answering.

23 FACILITATOR CLARK: Very good. Operator,
24 we are now going to turn to our question and answer
25 period. Do we have any questions in the room?

1 MR. BUTLER: John Butler, NEI. Do we have
2 any questions? That's almost silly.

3 We made comments on this before and I
4 think I mentioned it in the previous meeting. If
5 there are ways that we can improve the timing or the
6 issuance of the proposed rule and the issuance of the
7 final rule that would be received very positively by
8 many licensees.

9 You've mentioned that one of the
10 constraints in accelerating the final rule is and it's
11 classified as a major rule. Can you help me
12 understand what is it about this that is a major rule.
13 I mean, classified is a major rule and what can be
14 done to, I guess, alleviate that?

15 MS. WYLIE: So, I'll start and you can
16 correct me when I go wrong. Okay.

17 So, a major rule effectively is a rule
18 that has more than \$100 million worth of impact on the
19 economy. So, by that measure, you would say that in
20 fact this would be a major rule since it's currently
21 \$885 million worth of impact on the licensees roughly
22 depending on what year you're in. But since it's on
23 a very defined class of individuals and licensees --
24 corporate licensees, that we do it on an annual basis.
25 People anticipate that they will be paying fee. We

1 have engaged in at least a discussion with OMB about
2 is there an exception in this case. And so one of the
3 ways that we might do that would be to go from issuing
4 a new rule each year to issuing simply an update to
5 the fee schedule. So, for sake of argument, if we
6 said that the 16 fee rule was the rule for '17 we
7 might publish essentially a difference table. We
8 might be able to do that more quickly.

9 There are plusses and minuses associated
10 with that about transparency but that would be one way
11 that we would be able to go quicker through the
12 processing of the rules. So, we would gain time in
13 that way.

14 FACILITATOR CLARK: Maureen, we do have a
15 person from the Office of General Counsel here.

16 Jeremy, would you like to address this as
17 well?

18 MR. SUTTENBERG: Hi, this is Jeremy
19 Suttenberg from OGC. The only other minor thing that
20 I would add is this major determination comes from the
21 Congressional Review Act and so it's not really a
22 statement about the rule per se. it's how it fits
23 into the Congressional Review Act framework and then
24 OMB's charge under that statute by making the
25 major/non-major determination. And one of the factors

1 that they look at is the \$100 million impact on the
2 economy. So, it's not something that we control that
3 determination. It's something that's set by the
4 statute.

5 MR. BUTLER: And the impact that the
6 classification of the major rule has on the issuance
7 on the final rule is the amount of time it has to
8 be --

9 MS. WYLIE: Yes. It also because of all of
10 the information required it is a more laborious
11 process. So, we think that we could probably get
12 process efficiencies into it as well as it being in
13 place sooner -- available to licensees sooner and then
14 placed soon for collection purposes.

15 So, instead of getting your new bill in
16 August with only 30 days to collect you could get your
17 bill in July or even June and that would essentially
18 make that information available to the licensee
19 sooner.

20 The other impact would be as our budget
21 declines and as the rate declines the rate would be
22 available sooner.

23 MR. BUTLER: Good. Okay to continue?

24 The work papers that are associated with
25 the proposed rule and the final rule, I guess, were

1 there any substantive changes in the format of that
2 between what was done in 2015 and 2016?

3 MS. GALSTER: Yes, there were. Under the
4 hourly rate calculation we did include budgetary
5 resources that make up the mission indirect program
6 and the management support agency program.

7 MR. BUTLER: Okay, good.

8 MS. GALSTER: So, there's more information.

9 MS. WYLIE: But there was a breakdown of
10 what made up those line items specifically.

11 MR. BUTLER: Okay. Good. I know this is
12 kind of a pet peeve but I do -- I would very much
13 appreciate if anything that can be done to make the
14 work papers more legible or in a format that is easier
15 for those that are visually challenged to read.

16 MS. WYLIE: So, that would include me. But
17 I agree. So let's take it that that's something we
18 can work on regardless to changes in the rules. We
19 will take that.

20 MR. BUTLER: Kind of changing categories
21 if I can continue? I don't want to take up all the
22 time.

23 FACILITATOR CLARK: Why don't you take one
24 more and then we'll see if we have anything on the
25 phone.

1 MR. BUTLER: Okay. Well, this next one
2 I'll tee it up and I don't want to take too much time
3 with it because it could be a longer discussion.

4 But review categories. I think a lot of
5 the anxiety of different licensees can be reduced if
6 they just know what they're getting into with the
7 review process. Department 170 fees when they're
8 continuing to get bills for a review and they don't
9 know what the endpoint is causes a lot of anxiety and
10 uncertainty. So, while we've talked about a little
11 bit if there were a way to when a licensee submits
12 something for review, a LAR or a topical report or
13 anything else, if there were a way to categorize it up
14 front to give them an idea of how much it would cost
15 to complete the review, you know, categorize it,
16 small, medium, large or however you want to categorize
17 it but that provides a way that the licensee can track
18 how they're doing relative to that projected cost and
19 NRC will have a way to manage to that cap and
20 recognizing that not all reviews are the same that
21 there will be valid reasons for something to exceed,
22 you know, to continue or to go beyond their original
23 projection those can be identified earlier and can be
24 addressed and communicated to the licensee. I think
25 a lot -- if anything can have more impact -- it will

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1 have a lot of impact on how the licensees view the NRC
2 billing process, if anything can be done to improve
3 that.

4 MS. WYLIE: Okay.

5 MR. BUTLER: You know, if it starts with
6 the Pilot Program and expands out to other review
7 areas, that would be great but, you know, the quicker
8 we can engage on that type of discussion and get
9 something like that in the process I think would
10 greatly improve the lack of certainty in some of the
11 review processes.

12 MS. WYLIE: Okay. Thank you.

13 FACILITATOR CLARK: Okay. Thank you very
14 much.

15 At this time I'd like to see if there are
16 any questions on the telephone.

17 OPERATOR: There are no questions in the
18 queue at this time. If you do have a question, please
19 press *1. I'm showing no one prompting.

20 MS. WYLIE: Okay. Thank you. Well, then
21 please continue.

22 MR. BUTLER: I know one area that I've
23 received a lot of comments. I don't personally have
24 a lot of knowledge on this but I know that invoices as
25 they are received by licensees, it's always a case of

1 more information is always going to be desired. So,
2 that's the general comment to include more information
3 on the invoices of what the licensee is being charged
4 for and this would fit hand-in-hand with the previous
5 comment on trying to identify up front what the costs
6 will be on various activities. But not only
7 identifying in the invoices -- quarterly invoices or
8 however they're invoiced, what the, you know, it is
9 for the quarter but to tally up what it is in total
10 for that review activity to help the licensee track.
11 I know that somewhere in the process there's a
12 connection between the tack number and what the
13 activity is but that's not always available to the
14 person responsible for paying the bill and the tighter
15 the connection that can be made on the actual invoice
16 between the tack number and what the activity is would
17 be very helpful.

18 But, in general, having more specific
19 information in the invoice would be greatly
20 appreciated, especially, when it comes to contractor
21 hours.

22 MS. WYLIE: So, we are in the process of
23 implementing a change to the character length of some
24 of the descriptions of some of the codes. So, that's
25 really a rudimentary step in the direction that I

1 think that you're asking. But we recognize that more
2 information up front would also make the invoice
3 understanding and invoice dispute processes go more
4 smoothly as well.

5 Do you want to push?

6 MR. BLANEY: Just to add a little bit onto
7 that answer. There are licensees currently getting --
8 and if anyone is interested our accounts receivable
9 branch does have the ability to provide uncertified
10 estimates in advance. We have a full listing of
11 licensees that currently do that. You can actually
12 email the fees.resources.NRC.gov email. And ask to
13 put on the estimated list and they would just have to
14 provide the docket number and contact information.
15 This is something that is submitted out every pay
16 period for the full cost customers when they're
17 actually, you know, once a pay period time and labor
18 is accumulated for fee billing, again, it is
19 uncertified date but, however, it is a way of at least
20 providing an advance estimate prior to the end of the
21 quarter.

22 MR. BUTLER: And these are estimates for --

23 MR. BLANEY: Full cost bills, the part 170.

24 MR. BUTLER: Okay.

25 MR. BLANEY: Go ahead.

1 MR. BUTLER: Well, I guess I want to expand
2 upon that. In fact, that's a good start. My vision
3 of this -- the use of these cost estimates is that it
4 can also be used as a management tool both by the
5 licensee and the NRC and I suspect that that's not the
6 case right now.

7 MR. BLANEY: No, that's currently not the
8 case. However, until we get to the point where I
9 think everyone is working, you know, really well
10 together in that area, it's at least a start where we
11 can hopefully provide some sort of estimate to the
12 customer.

13 MR. BUTLER: Good.

14 MS. WYLIE: It doesn't address your
15 contract issue so we'll deal with that separately.
16 But that's fair, thank you.

17 FACILITATOR CLARK: As time is running
18 somewhat short, are there any other questions in the
19 room here? No?

20 All right. Your mic.

21 MR. BUTLER: This is John. I just had one
22 last question. This is primarily for my understanding
23 and learning. Hearings mandatory versus disputed
24 hearings, you know, I guess part of these the
25 mandatory hearings as I understand it are billed under

1 Part 170 and disputed hearings are billed under Part
2 171.

3 MS. WYLIE: Okay. So, this is how it
4 breaks down. Uncontested hearings and contested
5 hearings involving national security are billed under
6 Part 170. Contested hearings, whether they're
7 including for environmental or safety those are not
8 billed under Part 170. They are included in the
9 annual Part 171 fee.

10 We could look at that as an area to change
11 in the future.

12 MR. BUTLER: For the hearings that are --
13 do you have a sense right now of how many hearings
14 there are each year? I mean, I know that varies from
15 year to year but, you know, I'm trying to get a sense
16 and generally what each hearing costs?

17 MS. WYLIE: It's a lot. It's very hard to
18 estimate because it depends on where the licensee --
19 the class the licensee and where the licensee is in
20 the process. So --

21 MR. BUTLER: Do you have a sense of how
22 many of the total number of hearings how many are
23 uncontested, just mandatory but uncontested and how
24 many are --

25 MS. WYLIE: So, I could produce that

1 information in terms of the mandatory hearings. I
2 don't know -- I don't know that we can predict the
3 ones that are uncontested but that's something we
4 could look at. I'm pretty certain I can tell you in
5 a year what year we project there to be mandatory
6 hearings because we do agenda planning. That's based
7 on what the business lines know is coming. But it
8 does vary by licensee class.

9 MR. BUTLER: I'm trying to get a sense of
10 whether it would make sense to put in a recommendation
11 that hearings be billed differently, maybe as even a
12 flat fee for hearings. But i don't have the
13 information right now to really assess the degree to
14 which the cost of these hearings varies.

15 MS. WYLIE: So, how about -- so, certainly
16 what we'll do is we'll take that commend as something
17 for our further analysis. And as we work on this
18 there'll be other opportunities for us to be
19 transparent about this. So, in the fullness of time
20 where we are on that will come forward.

21 MR. BUTLER: Right, great. I appreciate
22 the time. Thank you.

23 MS. WYLIE: Thank you very much.

24 FACILITATOR CLARK: Okay. Once again are
25 there any questions on the phone line?

1 OPERATOR: At this time I'm showing no
2 questions. To ask a question hit *1.

3 FACILITATOR CLARK: Anybody else? Any
4 questions in the room?

5 All right. It sounds like then we have
6 completed this portion of the meeting. I believe we
7 have a slide. We can put the slide back up that shows
8 how to submit comments. As you'll see, I just want to
9 point out. This is somewhat different than the manner
10 in which you submit comments on the fee rule. You can
11 either provide them on our Federal Rule Marking
12 Website which is shown on the slide or you can mail
13 information and comments to Cindy Bladey and her
14 address is on that slide.

15 So, at this time, I'd like to turn the
16 meeting back to Michele.

17 MS. KAPLAN: Thank you, Lisa. And this
18 concludes our meeting for today and thank you to all
19 the participants who are here in the room and those on
20 the phone and on the webinar.

21 MS. WYLIE: thank you all very much. We're
22 adjourned.

23 (Whereupon, the above-entitled matter went
24 off the record at 3:57 p.m.)
25