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ATTN: Document Control Desk
Director, Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-001

Louisiana Energy Services, LLC
NRC Docket Number: 70-3103

Subject: Comments on Fuel Facilities Fee Matrix

References: (1) NRC Public Meeting, Fuel Facilities Fee Matrix – Options for Improvement, December 13, 2017

On December 13, 2017, Louisiana Energy Services, dba, URENCO USA (UUSA), participated in the reference (1) public meeting regarding the NRCs efforts to modify the manner in which 10 CFR Part 171 fees are determined for fuel cycle facilities. Comments associated with this effort are attached in enclosure 1.

UUSA appreciates the NRC's efforts in considering these comments and asks the staff to continue efforts to reduce the overall fee burden of the fuel cycle industry.

If you have any question, please contact Wyatt Padgett, Licensing and Performance Assessment Manager, at 575-394-5257.

Respectfully,

Stephen Cowne
Chief Nuclear Officer and Compliance Manager

Enclosure 1: UUSA comments on Fuel Facilities Fee Matrix Public Meeting

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Enclosure 1
UUSA comments on Fuel Facilities Fee Matrix Public Meeting

Executive Summary

UUSA does not agree with deviating from the current process utilized in determining annual fees for fuel cycle facilities. Data supports that the fee structure is appropriately shared amongst the fuel cycle facilities with minor changes. As described further below:

- NRC should first seek to reduce its overall budget to align with the needed level of oversight for a smaller fuel cycle industry with fewer activities. This should include a comparison to and understanding of the much lower annual increases that have occurred in the commercial reactor oversight area and why fees on average over 10 years have greatly exceeded the rate of inflation.
- If any adjustments are proposed, they should be demand/need based and remain closely aligned to the current approach which mirrors the need for inspection and oversight activities. Inspection and oversight activities take into consideration the differing facility hazard categories, security requirements, use of full time resident inspectors, and overall recent regulatory performance. Licensing needs should be fee-based upon requests and the overall need going forward defined based on historical requests and forecast of future needs from the licensees.
- Simply shifting regulatory fees from defense tax-payer based oversight to industry privately funded facilities requires a solid financial and technical basis in order to be considered a reasonable and fair approach for cost sharing. This basis has not been demonstrated to date.
- Finally the proposed approach creates additional disparities in fee application and has the potential to create disincentives to continued performance improvement.

Comments on NRC Proposed Fee Schedule

NRC License Fee Reduction

1) UUSA supports the NRC in continuing to concentrate efforts in reducing the overall fee burden on the Fuel Cycle Industry. However, rather than re-proportioning the existing amounts paid by the type of licensees, UUSA provides the following comments regarding the Part 171 fees:

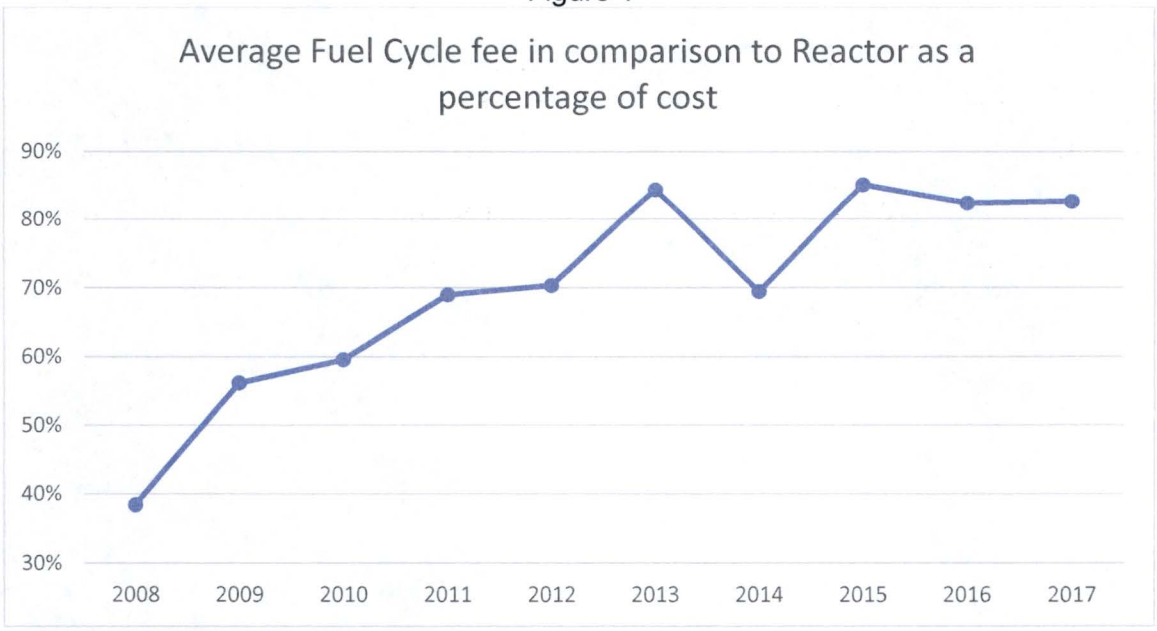
   a. UUSA recognizes the NRC has previously reduced the number of FTEs supporting the fuel cycle from 136 in fiscal year 2016 to 113 in fiscal year 2017. The NRC's congressional budget justification for fiscal year 2018 is 114 FTEs, ML17339A121. UUSA considers the number of FTEs high and uneconomical as the fiscal year 2017 comparison by direct resource located on the NRC's License Fees web page indicates that the actual effort for fiscal year 2017 was 82 FTEs indicating ~5% excess staff for 2017. The projections for 2018 should not exceed the preceding year's needs by ~25% again unless data indicates that amount of resources is needed. Many fuel cycle facilities have made reductions in staff; UUSA reduced staff by approximately 20% in 2017 due to market conditions and equally has no present plans for expansion. Due to the downturn in the nuclear industry, and if the NRC's projections do not require such a large staff, additional reductions should be made. Furthermore, there has been a reduction in activities due largely to a depressed market This includes the recent announcement by Converdyne regarding the cessation of some of their near term operations.

b. UUSA requests the NRC to continue to make reductions in the annual fees for fuel cycle facilities. Fees have decreased over the past two years, however Table 1 shows that the average yearly increase over the past 10 years has been 9% for Fuel Cycle Facilities while the increase for commercial reactors has been only 1%. Figure 1 details the difference of Fuel Cycle fee in comparison to Reactor fees. Over the last 10 years, the disparity in fees for the average fuel cycle facility compared to that of a reactor has increased from 38% in 2008 to 83% in 2017. This 9% increase on average is substantially larger than the cost of living. The disparity between the significant difference in fee increases for all facilities/ reactors should be explained prior to proceeding with future changes.

Table 1
Annual Fee Increase/Decrease per year by license type, including reactors

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Avg
Cat 1 Fab	-27%	56%	16%	12%	4%	11%	3%	18%	-7%	-8%	8%
Cat 3 Fab	-27%	83%	24%	12%	4%	11%	-6%	18%	-6%	-4%	11%
Enrichment	-27%	64%	0%	17%	4%	11%	-10%	18%	-6%	-8%	6%
Conversion	-27%	65%	14%	13%	4%	11%	3%	18%	-6%	-8%	8%
Weighted average of Fuel Cycle Facilities (2 Cat1 Fabs; 3 Cat3 Fabs, 1 Enrichment, and 1 Conversion)											9%
Reactor	0%	12%	6%	-2%	2%	-8%	19%	-4%	-3%	-7%	1%

Figure 1



Comments Related to the NRC's Proposed Fee Determination Method

1) Some categories in the current Fee Matrix do not appear to be appropriately characterized.
   a. It appears the approach is intended to cover all activities of the fuel cycle industry under NRC authority. Sensitive Information, on its own, is not technically a process, however for the purpose of fees it would be appropriate to leave in the matrix. UUSA understands the addition of Sensitive Information as it does involve a level of effort by the NRC. With this category's inclusion, it does appear that Physical Security is missing from the matrix. UUSA believes that Physical Security should be added with effort factors of 10 being applied to Category 1 facilities and an effort factor of 1 applied to the remaining facilities. Inspection Manual Chapter (IMC) 2600 requires a significant amount of inspection hours for Category 1 facilities in comparison to all other facilities.

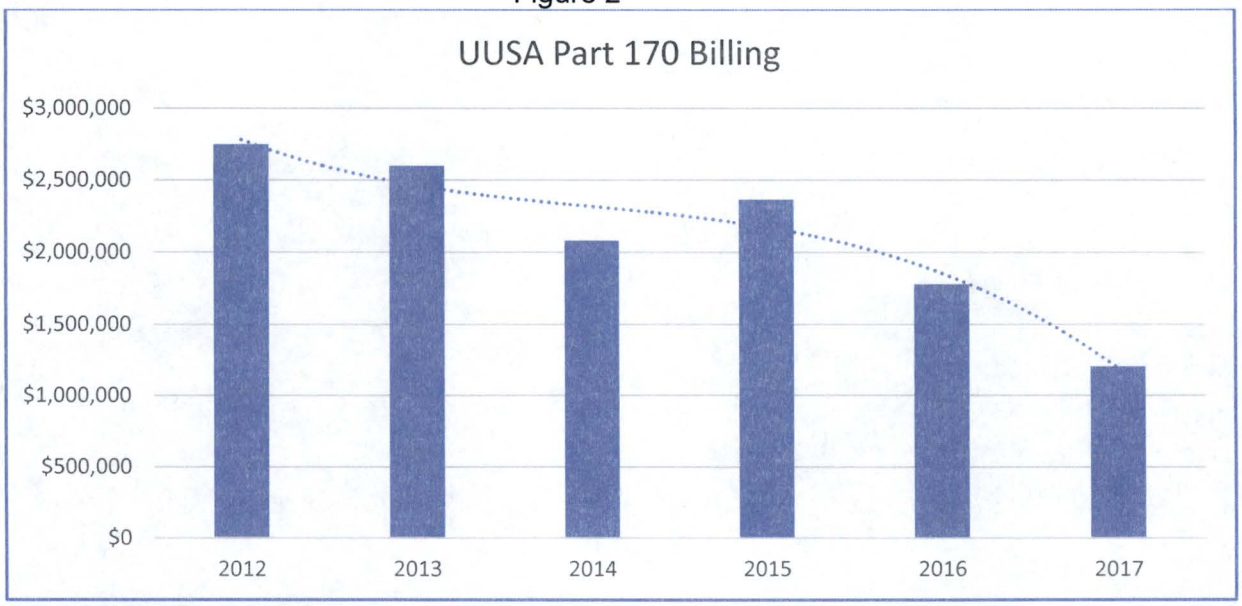
   b. The effort factor for Uranium Enrichment is presently a 10 for solid UF6/Metal. The effort factor for Category 1 Fuel Fabricators is also a 10 and is a 5 for Category 3 Fuel Fabricators and conversion facilities. UUSA does not agree that a 10 fairly represents the level of NRC activities conducted for UUSA. The number of inspections, vintage of the design and license, simplicity and number of process systems, and IROFS demonstrates that the assigned factor in comparison to the other fuel cycle facilities, at best, should be lower than that assigned to Fuel Fabricators. UUSA and the other licensees listed, currently not operating, are gaseous centrifuge processes for which the level of effort should be lower and more representative of the effort needed for Category 3 Fuel Fabricators and Conversion facilities.

   c. The effort factor for Sensitive Information and Enrichment are higher for Global Nuclear Fuels than the other two Category 3 Fuel Fabricators. Centrus and Areva Eagle Rock are not charged an annual fee as they are not operating. It does not appear to be reasonable for Global Nuclear Fuels effort factors to be increased as a separate non-operational activity. If Global Laser Enrichment were operational, is it assumed they would pay two separate license fees? Regardless, the average Category 3 Fuel Fabricator effort total should not be increased by a non-operational activity.

2) One of the proposals the NRC is considering is to make the annual fee proportional to Part 170 billing or utilize Part 170 billing in a combination approach as a part of the overall fee. Either of these approaches could discourage improvements to a facility's licensing basis as any licensing efforts could ultimately result in an increase to the annual fee on an ongoing basis. This concept is not consistent with industry practice to continually seek improvements.

   UUSA was licensed in 2006 and commenced initial operations in 2010 with the remaining significant construction continuing until 2015. Many of UUSA's licensing actions were a result of preparations for new parts of the facility being placed into production and thus UUSA's Part 170 fees were higher in these times. A trend of UUSA's bills over the past 6 years is provided in Figure 2 below:

Figure 2*



*From UUSA's Finance Records

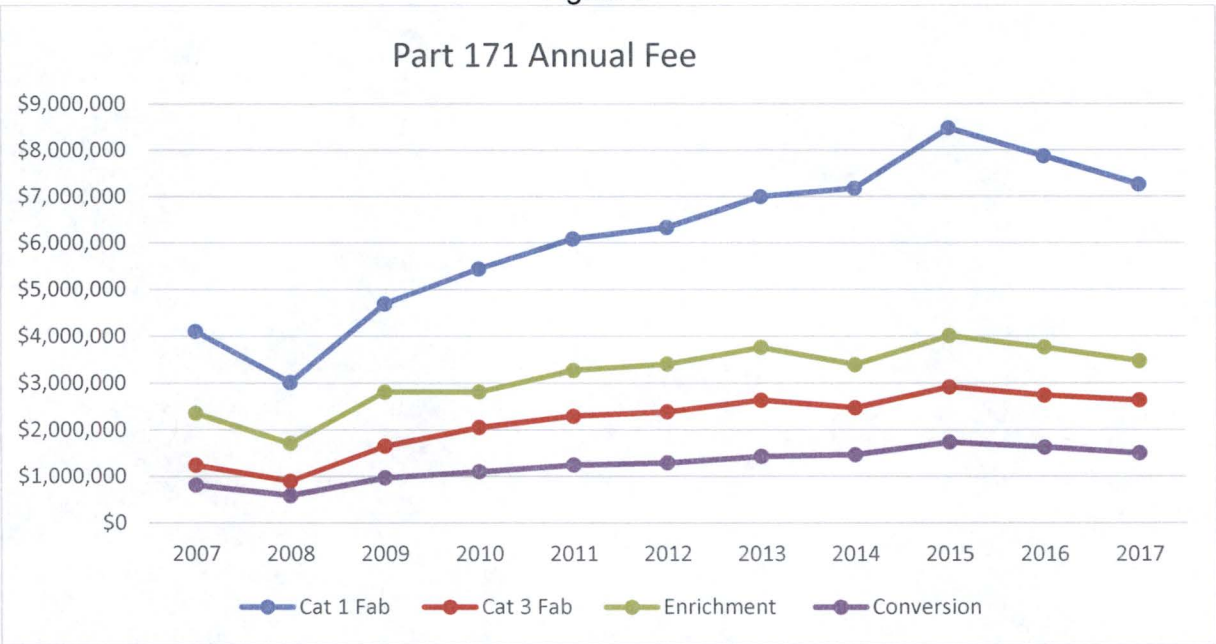
UUSA does not support a proportional or combined approach. If such an approach is utilized, considerations should exclude improvement licensing actions (i.e. process improvement LARs) and any billing from 3rd party external sources such as DOE or NRC contractors.

Also the proposed approach groups all Category 1 Fuel Fabricators and groups all Category 3 Fuel Fabricators and averages their cost over 4 years amongst the group of facilities to determine their proportion. UUSA (enrichment) and Honeywell (conversion) are not averaged with other similar facilities as they are the only operational facilities of their kind. If a proportional approach is utilized, UUSA would need to be grouped with another facility such as Honeywell or with the three Category 3 Fuel Fabricators so that fees are fairly allocated.

3) Where the NRC suggests that utilization is somehow dependent on NRC guidance documents applicable to a particular licensee or licensees, this idea needs further explanation and detail. Some of the cited documents may no longer be applicable to specific licensees. This approach could deter a facility from adopting new or improved standards voluntarily in order to avoid increased license fee.

4) The past eleven years of annual fees by license type was charted in Figure 3. While it appears the annual fee for category 1 facilities has outpaced that of other facilities, Table 2 shows the year on year percentage increase by license type and, on average, over the past ten years Category 3 fuel fabrication facilities have increased more than any other type of licensee. It can be concluded that no single type of facility has had a more significant fee increase over another.

Figure 3*



* source 10 CFR

Table 2:
Annual Fee Increase/Decrease per year by license type

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Avg
Cat 1 Fab	-27%	56%	16%	12%	4%	11%	3%	18%	-7%	-8%	8%
Cat 3 Fab	-27%	83%	24%	12%	4%	11%	-6%	18%	-6%	-4%	11%
Enrichment	-27%	64%	0%	17%	4%	11%	-10%	18%	-6%	-8%	6%
Conversion	-27%	65%	14%	13%	4%	11%	3%	18%	-6%	-8%	8%

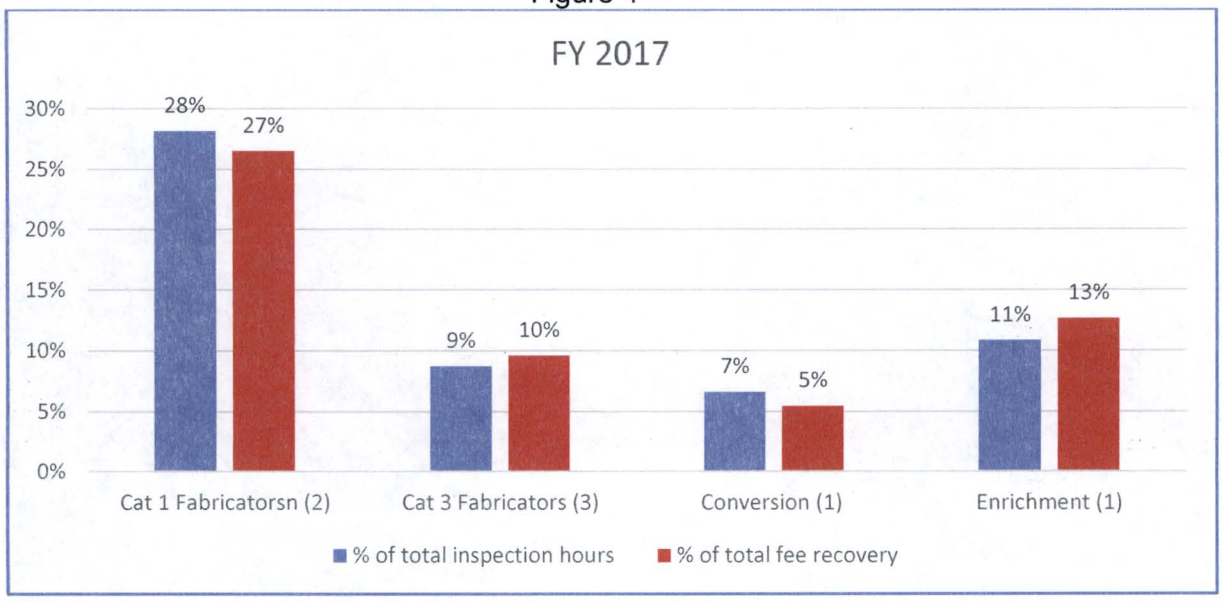
Alternative Proposal

UUSA provides the following proposal as an alternative to the options described by the NRC in the public meeting:

Continue to utilize the Fuel Facilities Fee Matrix considering comment #1 on "Comments Related to the NRC's Proposed Fee Determination Method" (page 3 of 7) or base the annual fee on the number of inspection hours at a facility for the preceding three years including resident inspector's time. If an inspection based approach is utilized, excluding licensing actions ensures that facilities are not discouraged from making improvements to their licensing basis. It can further incentivize a licensee towards continued performance improvements in order to reduce the number of required inspections.

Presently, the amount of inspection hours planned per IMC 2600 are fairly close to the fee matrix approach the NRC currently utilizes. Below, the differences are charted based on 2017 fees and the effective version of IMC 2600. Figure 4 confirms the current fee matrix approach is fair and reasonable.

Figure 4



The current fee matrix approach should continue to be used and comments for retaining such approach should be considered. If more than the scheduled inspection hours are considered than UUSA should be grouped with other Category 3 Facilities or with Conversion Facilities so that the averaging, currently applicable to Fuel Fabricators, is consistently applied to the industry.

Overall Policy Comment

If the NRC chooses not to reduce its overall budget, and instead seeks to simply shift costs from the defense-related industry participants to the non-defense related industry participants, this leads to questions of fairness, policy and the need for a clear technical justification and basis for shifting between tax payer and private industry funded expenses.

From a fairness standpoint, non-defense industry parties, unlike defense industry parties, must rely on the free market to generate the revenues necessary to pay the NRC fees. Current demand for fuel cycle products at many stages of the fuel cycle and their associated sales price have dropped substantially since Fukishima. The "demand" for defense industry parties' products/services does not arise from a free market. Rather, the "demand" is governed solely by how the federal government deems its need for the products/services. As a result, even if the defense industry parties were to increase the cost of these products/services to account for what NRC would seek to shift to other parties, the government would very likely treat the situation in an inelastic way – i.e., there would be little or no impact on their demand. Consequently, cross-subsidization between the two industry parties without a substantiated basis is unfair.

From a policy standpoint, shifting costs to the non-defense industry parties effectively creates a supplement to the government approved fund at the expense of the private industry.

Summary

UUSA does not agree with deviating from the current process utilized in determining annual fees for fuel cycle facilities and asks the NRC to focus efforts on reducing fees instead of reallocating them.