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Exelon Generation

J. Bradley Fewell
Senior Vice President of Regulatory
Affairs & General Counsel

4300 Winfield Road
Warrenville, IL 60555

630.657.3752 Office
630.657.4335 Fax
www.exeloncorp.com
bradley.fewell@exeloncorp.com

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Secretary
U.S. Nuclear Regulatory Commission
ATTN: Rulemakings and Adjudications Staff
Washington, DC 20555-0001

Subject: Comments Concerning Revision of Fee Schedules; Fee Recovery for Fiscal Year 2019 (84 Fed. Reg. 578, dated January 31, 2019) (Docket ID NRC-2017-0032)

Exelon Generation Company, LLC ("Exelon") submits these comments on the Nuclear Regulatory Commission's (NRC's) proposed rule to revise the fee schedules in 10 CFR Parts 170 and 171 for Fiscal Year 2019, published at 84 Fed. Reg. 578 on January 31, 2019.

Exelon appreciates the NRC's efforts to improve the efficiency and clarity of the fee and invoicing process, e.g., the publication of the proposed rule in January 2019, the removal of the 6% surcharge on hours for NRC Project Managers/Resident Inspectors (PM/RI), and the other improvements made as part of the Fees Transformation Initiative.

Regarding the FY2019 proposed fee rule, although NRC has improved the fee process as noted above, Exelon continues to have many of the same concerns regarding this process that we have expressed in recent years.[1] Increasing our level of concern this year is the power reactor industry's continued economic stress, highlighting the importance of efficient regulatory oversight given the industry's high levels of safety and reliability. It is in the spirit of improving transparency and efficiency that Exelon provides the following comments on the FY2019 proposed rule.

- The FY2019 proposed rule states that although the overall budgeted resources for operating power reactors is essentially unchanged from FY2018, the approximate 11% decrease in proposed Part 170 fee collections results in a 7% increase in Part 171 collections to satisfy the Omnibus Budget Reconciliation Act of 1990 (OBRA-90). This represents an increase of more than 8% per operating reactor, reflecting the shutdown

[1] *See* Letter from J. Fewell, Exelon, to U.S. NRC, "Comments Concerning Revision of Fee Schedules; Fee Recovery for Fiscal Year 2018 (83 *Fed. Reg.* 3407, dated January 25, 2018) (Docket ID NRC-2017-0026)," dated Feb. 21, 2018 (ADAMS ML18054B354); Letter from J. Fewell, Exelon, to U.S. NRC, "Comments Concerning Revision of Fee Schedules; Fee Recovery for Fiscal Year 2017 (82 *Fed. Reg.* 8696, dated January 30, 2017) (Docket ID NRC-2016-0081)," dated Feb. 28, 2017 (ADAMS ML17061A683); Letter from J. Fewell, Exelon, to C. Bladey, NRC, "Comments Concerning Fee Development and Communications (81FR15352, dated March 22, 2016) (Docket ID NRC- 2016-0056)," dated May 6, 2016 (ADAMS ML16133A327); Letter from B. Hanson, Exelon, to U.S. NRC, "Comments Concerning Proposed Rule 10 CFR Parts 170 and 171, 'Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015' (80FR15476, dated March 23, 2015) (Docket ID NRC-2014-0200)," dated April 22, 2015 (ADAMS ML15113B230).

of Oyster Creek reducing the number of operating reactors from which to recover the Part 171 fees. With such a marked decrease in proposed Part 170 fee collections, and the actual and projected decreases in the number of operating reactors, a more appropriate approach would be to reduce the overall operating power reactor budget rather than to shift fee collections from Part 170 to Part 171.

- Even though there is a wealth of information provided in the published proposed fee rule and associated Work Papers for operating power reactors, it continues to be unclear which resources are to be recovered from Part 170 vs. Part 171 fees, making it difficult to determine which portions are beneficial to specific dockets or reactor types, and which are for the benefit of the fee class as a whole. While some Work Papers line items appear to be clearly limited to a given entity, e.g., "Design Certification" in the New Reactors business line, others, e.g., "RIC" or "Systems Analysis Research" in the Operating Reactors business line, are not. It would be useful to indicate, perhaps by percentage, the portions of Work Papers line items that are to be recovered via Part 170 and Part 171 fees. Such delineation would help the industry understand which items are considered by NRC to be specific or shared, enabling the applicable industry segment to engage the NRC.

- One area of considerable proposed NRC cost increase appears to be Information Technology (IT). Considering the Work Papers "IT Infrastructure" and "Mission IT" line items in the Power Reactors fee class shows the associated contract dollars are proposed to increase by over $10M, for a total of over $24M, approximately 30% of the contract dollar budget. Half of the increase comes from IT Infrastructure for the Oversight product line in the Operating Reactors business line. There is also a proposed increase of four FTEs for the same two line item types. It would be useful to identify in more detail, e.g., in the Work Papers' introduction to the Operating Power Reactors annual fee Section III.B.2.a, the purpose of this large increase in IT expenditures, the types of items or activities included in these line items, and whether the costs are proposed to be recovered via Part 170 or Part 171 fees. Although the cost reductions in other Work Papers line items, e.g., Engineering Research and Risk Analysis, combine to off-set much of the overall contract cost increases and result in an overall reduction of approximately 17 FTE for the fee class, the necessity driving the large increase in IT costs is unclear.

- Similar to the above comment related to IT, it would also be useful if the Work Papers provided additional information for other apparently generic line items that are proposed to experience large increases in funding, e.g., "Other Response Activities", "Licensing Actions", and "Licensing Support". These three items are proposed to increase by over $3M in contracting dollars and eight FTEs.

- Exelon also recommends that the NRC include a detailed summary of how actual expenditures have compared to budget for prior fiscal years. Exelon notes the additional information provided in the Work Papers for fees collected in prior years. This table shows that FY2018 Operating Power Reactors Part 170/Part 171 collection fractions were 35% and 65%, respectively, compared to the FY2018 Final Fee Rule estimates of 36% and 64%, respectively. While this information is helpful in confirming the overall accuracy of NRC fee estimates, a breakdown of these fees by Business Line and

Product Line would enable the NRC and stakeholders to identify areas for improvement and opportunities for efficiency.

Although not part of the FY2019 proposed fee rule, the recently enacted Nuclear Energy Innovation and Modernization Act (NEIMA) was discussed at the NRC FY2019 proposed fee rule public meeting on February 13, 2019. Exelon supports NEIMA's elimination of the OBRA-90 requirement that NRC recover 90% of its budget authority in a retro-active manner. Exelon expects that future NRC budgeting will be completed more proactively and with the ability to adjust to changing future conditions, without the artificial constraint of the 90% recovery requirement. Exelon also supports NEIMA's cap on operating reactor fees. However, the current NEIMA cap at the FY2015 value is higher than the last few fiscal years (with the cap adjusted for inflation). Exelon encourages the NRC to engage the industry during the development of NRC budget justification under NEIMA to more accurately determine a necessary reactor fee partition.

Lastly, Exelon supports the general comments of the Nuclear Energy Institute on the FY2019 proposed fee rule. Exelon encourages the NRC to consider all these comments as the FY2020 budget and fee structure is developed. Exelon also encourages the NRC to seek industry and licensee input as the NRC transitions to implementing NEIMA's fee structure.

Exelon appreciates the opportunity to submit these comments. If you have any questions or require further information, please contact Eric Jebsen, Senior Regulatory Engineer, at 630-657-2829.

Respectfully,

J. Bradley Fewell
Senior Vice President Regulatory Affairs & General Counsel
Exelon Generation Company, LLC