

Commissioner Stan Wise Testimony at Blue Ribbon Commission Public Meetings on Draft Report to the Secretary of Energy

I am Stan Wise. I am here on behalf of the Georgia Public Service Commission, where I serve as Chairman. The commission regulates public utilities and certain other public services according to State laws and regulations.

I am also representing the National Association of Regulatory Utility Commissioners, of which all public utility regulators are members.

I thank the Commission for its service in evaluating ways to get the nuclear waste program back on track and for holding these meetings to elicit reactions to your Draft Report. NARUC provided comments on the Subcommittee Reports in June and is preparing comments on the Draft Commission report. I will summarize our reactions and then focus my remarks on a specific area of concern.

While we understand the Commission's adherence to the guidance given to you by the Secretary of Energy and the statement in the Report that all of your recommendations can and should be implemented regardless of what happens with Yucca Mountain, we believe the Commission should have recommended that the NRC be required to fulfill its obligation to complete the Yucca Mountain license review, in the interest of science and to inform policy makers.

We agree with the reports finding that the nuclear waste program is at an impasse. I won't attempt to address the history of how that came to be, but it looks as though a heavy-handed policy decision in 1987 imposed on Nevada—however supported on technical merit—was undone when Nevada's political influence was on the ascent in 2009. During the intervening years, upwards of \$7 billion collected from reactor owners and their customers was spent, along with \$4 billion from the Defense budget¹, and all we have to show for it is an 8,000 page license application that the NRC won't review and a tunnel into the site approved by Congress in 2002 that now is padlocked.

I will summarize some of our reactions to the well-written Draft Report:

Consolidated Storage

- Disagree that all elements of plan are not new: consolidated central storage is new, although we have urged since 1994.

¹ Costs are from DOE reports for year of expenditure since 1983. GAO places the total cost in constant 2010 dollars at \$15 billion. GAO-11-229 April 2011.

- We seek more proof that building and operating a consolidated storage facility would pay for itself in savings, as the Draft Report asserts.
- It seems unfair to pay for storage with the Nuclear Waste Fund to save money that comes from the Judgment Fund.
- We can't tell how much spent fuel will be stored for how long at what cost. So, if it comes out of the NW Fund, we can't tell what the effect on the fee might be.
- Agree with spent fuel from decommissioned sites should be first in line.

Permanent Disposal

- Agree a new repository site needed regardless of what happens with Yucca.
- Support the new "consent-based" siting approach.
- New approach will require patience and take time
- State veto should not be needed under a respectful, "opt-out" basis.
- Agree appropriate to use NW Fund to provide some benefits as incentives.

New Organization

- Reality is that a new organization is needed since the former program management organization within DOE has been disbanded.
- Support the concept and reasons for setting up a federal corporation.
- We are interested in having representation on any fee-setting oversight board
- Agree with having a stakeholder advisory committee with NARUC included

Funding the Waste Management Program

I would like to state that financing is essential to a successful nuclear waste strategy and the present functioning of the Nuclear Waste Fund won't get the job done.

The Draft Report recognizes in Section 8 that the success of a revitalized waste management program depends on a functioning full cost-recovery user fee like the Nuclear Waste Fund was designed to be that provides access to fees collected as well as the supposed corpus of prior year accumulated "surplus" and interest that was credited to the Fund.

We are skeptical of the Commission's statement that, "Overall, we are confident that our recommendations can be implemented using revenue streams already dedicated for this purpose (i.e., the Nuclear Waste Fund and fee.)" First of all, there is no cost estimate for a revitalized disposal program that we are aware of. Second, on a tenuous interpretation that the new consolidated storage program—also of indeterminate scope and cost— the Draft Report apparently assumes such storage can be financed from the Nuclear Waste Fund because it is "incidental to disposal." Finally, the Commission's confidence presumably includes the assumption that the \$25 billion or more that is no longer regularly reported upon by DOE as the

“balance” in the Nuclear Waste Fund is going to be fully transferred at some future point to the new waste management organization.

We fully agree with the proposed near-term non-legislative action to “reclassify” and change the timing of the Nuclear Waste Fund fee collections as outlined in Section 8.3.1. State utility commissions, already familiar with decommissioning trust funds, can work with the utilities and DOE or a successor waste management organization to set up the irrevocable trust accounts at approved third-party financial institutions in their States.

We also feel that if there is to be a major new initiative to build consolidated central storage for up to a hundred years and the desire is to use the Nuclear Waste Fund for it, that it warrants amending the NWPA (which the Draft Report says is needed anyhow.)

Advanced Reactor and Fuel Cycle Technologies

- We find the Commission’s conclusion that it is premature to seek consensus on closing the fuel cycle to be understandable. A lot depends on the extent of nuclear expansion.
- We do not support using the NW Fund for either research or development of reprocessing, recognizing that such has not been proposed. We just want to be clear.

Regulatory Matters

- We disagree with the recommendation that EPA and the NRC continue to share responsibility for radiation standards. NRC has expertise and a risk-based regulatory regime that is capable of protecting public health and safety.

Transition

- We recommend that the Final Report contain some recommendations on transition to the new organization. If DOE is “getting out of the business,” who will secure support for the new strategy from Congress and the public and help launch the new organization?