



Pillsbury Winthrop Shaw Pittman LLP

1200 Seventeenth Street, NW | Washington, DC 20036 | tel 202.663.8000 | fax 202.663.8007

Jeffrey S. Merrifield

July 31, 2018

The Honorable Fred Upton, Chairman
House Energy and Commerce Committee
Subcommittee on Energy
2125 Rayburn House Office Building
Washington, D.C. 20515-6115

**Re: DOE Modernization: Legislation Addressing Development,
Regulation, and Competitiveness of Advanced Nuclear Energy Technologies**

Dear Chairman Upton:

Thank you for the honor of allowing me to appear before the Subcommittee on Energy on Tuesday, May 22, 2018, to discuss legislation addressing the modernization of the Department of Energy, the Nuclear Regulatory Commission and Advanced Nuclear Energy Technologies.

As you have requested, I have enclosed responses to several questions that were raised regarding my testimony. I hope these answers provide you the information that you and the other Members of the Committee were requesting.

Sincerely,



July 31, 2018

Page 2

Jeffrey S. Merrifield
Partner and Energy Section Leader

cc: The Honorable Bobby L. Rush
Ranking Member, Subcommittee on Energy

Attachment (1)

Prepared Answers of the Honorable Jeffrey S. Merrifield to the Additional Questions for the Record for the Subcommittee on Energy Hearing Dated Tuesday, May 22, 2018

Question 1 from the Honorable Bill Flores

The recommendations contained in the paper you authored on high-assay LEU helped inform many of the provisions in the discussion draft, and your thoughtful input is appreciated. The focus of this discussion draft is to provide a targeted and limited program to address the challenges to overcome these hurdles for the first movers, not to create a permanent government program. What would be the appropriate date to sunset this program?

Merrifield Answer to Question 1

First, thank you very much for considering the recommendations I made on behalf of ClearPath. It was an honor to testify before the Subcommittee and I appreciate the bi-partisan spirit with which you and your fellow Members are attempting to support this exciting new opportunity for American nuclear power.

Given the interactions I have had with various developers of advanced nuclear technologies, I believe these technologies will be rolled out beginning in the late 2020's through the middle of the 2030's. For this reason, I believe that an appropriate sunset time for this program would be calendar year 2035.

Question 2 from the Honorable Paul Tonko

Are any activities exempted under H.R. 1320 currently recoverable by the NRC?

Merrifield Answer to Question 2

While I have not been able to make an exhaustive review of the legislation, the principal area included in H.R. 1320 which is currently recoverable is Section (3)(b)(1)(B)(iii) pertaining to "costs for activities related to the development of regulatory infrastructure for advanced nuclear technologies." As I discussed in my testimony, I believe this is an appropriate item to be taken off the fee base as the current NRC fee structure could serve as a further impediment for the development of these promising advanced reactor technologies. Additionally, eliminating this fee for advanced reactors would provide better alignment with the current fleet of nuclear units, most of which were licensed and built prior to the passage of OBRA 1990 which created the NRC fee structure.

Section 3(b)(2) and (3) appear to serve as a means to cap the annual fees of certain current licensees to "cover the costs to the Commission of providing the service or things of value." While the authors of the legislation are better placed to explain precisely how this legislation is intended to work, to the extent it places a cap on the fees that the Commission can charge a specific licensee, any additional costs, by their very nature, would need to be covered by some other source. Typically, this would occur through recovery in another fee structure, or by recovery in general revenues.