Testimony on behalf of the
National Association of Regulatory Utility Commissioners

by

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Commissioner
Illinois Commerce Commission

before the

United States House
Committee on Energy and Commerce

Subcommittee on Energy

hearing on

"Nuclear Spent Fuel Policy: Examining Nuclear Lifecycle Innovation Campuses"

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Testimony Summary
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1. National Association of Regulatory Utility Commissioners (NARUC) members have fiduciary responsibilities for electric utility ratepayers and are responsible for ensuring reliable, safe, and affordable utility services in each of the 50 States and the District of Columbia.

2. The renewed interest in nuclear for reliable electricity generation should spark a genuine commitment on the part of the federal government to finally meet its statutory obligation to resolve the nation's nuclear waste disposal problem.

3. The nation's ratepayers have paid tens of billions of dollars toward the federal nuclear waste disposal program envisioned in the 1982 Nuclear Waste Policy Act with virtually nothing to show for it. In fact, there currently is no federal nuclear waste disposal program to speak of.

4. NARUC successfully sued the federal government to halt collection of the nuclear waste fee from ratepayers because of federal inaction.

5. NARUC continues to support the concept that beneficiaries of nuclear generated electricity pay for the disposal program, but the fee should not be reinstated until a new Department of Energy fee adequacy study demonstrates the need for reinstatement.

6. There are steps that can be taken to build a viable and sustainable federal high-level nuclear waste program, including ensuring the Nuclear Waste Fund is managed responsibly and used only for its intended purpose.

7. The country needs Congress and the Administration to work on near-term actions to give consumers of electricity from nuclear power plants the nuclear waste management program they paid for and deserve.

Good morning, Chairman Guthrie, Ranking Member Pallone, and members of the House Energy and Commerce Committee and good morning Chairman Latta, Ranking Member Castor and the members of the Subcommittee on Energy. Thank you for the opportunity to testify today on the "Nuclear Spent Fuel Policy: Examining Nuclear Lifecycle Innovation Campuses." My name is Stacey Paradis, and I am a Commissioner with the Illinois Commerce Commission. I am here to testify on behalf of the National Association of Regulatory Utility Commissioners (NARUC) in my role as Chair of the NARUC Subcommittee on Nuclear Energy.

NARUC is a non-profit organization founded in 1889. Our members are the public utility commissions in all 50 States, District of Columbia, and the U.S. territories. NARUC's mission is to serve the public interest by improving the quality and effectiveness of public utility regulation. Our members regulate the retail rates and services of electric, gas, water, and telephone utilities.

State economic utility regulators are responsible for ensuring the safe, reliable, and affordable delivery of essential electric utility service in every State across the country. Accordingly, many State Commissioners are favorable toward the prospect of nuclear energy, including advanced nuclear technologies, providing reliable electricity generation. Legacy nuclear units and innovative new deployments are essential to meeting surging system demand with clean, reliable and resilient energy to ensure a stable power supply for a rapidly evolving economy. At this time, the Department of Energy (DOE) does not have an effective program for permanent disposal of spent nuclear fuel and high-level radioactive waste. A workable pathway needs to be prioritized to site, license, construct, and operate one or more deep geologic repositories to properly serve the needs of the nation.

I would like to extend NARUC's compliments to this Committee's leadership for holding this hearing. In announcing this hearing, Chairman Guthrie correctly noted that:

> **For decades, nuclear energy has provided Americans with safe, reliable, and affordable power. As our nation continues to unleash this critical energy source, it's vital that we modernize our fuel cycle to secure energy dominance.**

Unfortunately, the federal government has not fulfilled its responsibilities on the final component of the nuclear fuel cycle, which is the waste produced. The nation's utility customers have paid tens of billions of dollars toward the former federal nuclear waste disposal program and the nation's taxpayers continue to foot the bill for the government's failure.[1] The Nuclear Waste Fund (NWF) must be managed responsibly and used only for its intended purpose. The federal government, not electric utility ratepayers, must remain accountable for the financial consequences of its failure to accept nuclear waste since 1998.

Right now, there is no federal nuclear waste disposal program. The program envisioned in the Nuclear Waste Policy Act of 1982 (NWPA) was essentially shut down after the Yucca Mountain license application was abruptly withdrawn in 2010 and the Office of Civilian Radioactive Waste Management was disbanded shortly

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[1] Ratepayers are currently off the hook though contribution through rates, courtesy of NARUC's successful 2013 lawsuit against DOE to stop the collection of fees to support the program. However, the American taxpayer is still liable for DOE's failure to accept waste for storage. See, e.g., Statement of Kim Cawley, Chief, Natural and Physical Resources Cost Estimates Unit, The Federal Government's Liabilities Under the Nuclear Waste Policy Act, before the Committee on the Budget, U.S. House of Representatives (October 7, 2007), online at: http://www.cbo.gov/sites/default/files/10-04-nuclearwaste.pdf. ("In the absence of a federal underground repository to accept nuclear waste for storage, taxpayers… pay—in the form of legal settlements with utilities—for a decentralized waste storage system at sites around the country. (Those payments are being made from the Department of the Treasury's Judgment Fund.) …DOE currently estimates that payments to utilities pursuant to such settlements will total at least $7 billion . . more if the program's schedule continues to slip. Regardless of whether or when the government opens the planned repository, those payments are likely to continue for several decades."). Note, according to the Audit Report: The Department of Energy Nuclear Waste Fund's Fiscal Year 2025 Financial Statement Audit, from the DOE Office of Inspector General, at page 25, (DOE-OIG-26-02 November 2023), $12.2 billion has been paid out of the judgement fund to date.

thereafter. It has now been 44 years since the NWPA was passed and this past February 1st marked 28 years since DOE defaulted on a "standard contract" with the nation's reactor operators to begin disposing of spent nuclear fuel as required by the NWPA.

Both NARUC and its member commissions have dedicated a tremendous amount of time and resources over the past 40 years to ensure that electricity consumers receive the services for which they have paid. NARUC and its member commissions were at the table when the NWPA was developed and passed. State regulators agreed that users of electricity that is generated at the nation's nuclear power plants should pay for the federal nuclear waste management and disposal program.

Unfortunately, the only component of the NWPA that was implemented on time and as intended was the collection of the fee from America's utility ratepayers.

According to the FY2025 Nuclear Waste Fund (NWF) Annual Financial Report Summary, the total income into the NWF is well over $62 billion. After more than $11 billion was expended for the program, including expenditures for the first repository, the current program balance is approximately $51 billion.[2]

After decades of scientific study and several billion dollars invested in the process, the country is still in the same place we were 44 years ago in 1982.[3] Despite

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[2] *See, FY 2025: NWF Annual Financial Report Summary*, https://www.energy.gov/documents/fy-2025-nwf-annual-financial-report-summary.

[3] DOE, the President, and Congress approved Yucca Mountain in 2002 after a very public deliberative process that included public meetings and requests for public comment. There is no record of any public process in advance of the Administration's 2010 decision to terminate the license proceedings. On March 15, 2010, NARUC filed before the NRC's Atomic Safety and Licensing Board (ASLB), along with numerous others, to oppose a DOE motion to withdraw the Yucca Mountain License application, contending that dismissal "will significantly undermine the

American utility customers and taxpayers paying billions to the federal government to resolve this issue, little progress has been made. At some sites where the nuclear plants have been permanently retired, the land cannot be reclaimed because waste remains stored there awaiting disposal in a permanent national repository.

Recognizing there would be problems and obstacles to the program, NARUC established a "Subcommittee on Nuclear Issues – Waste Disposal" in 1984 to closely monitor the activities of the program. Today, the Subcommittee is titled Subcommittee on Nuclear Energy. In 1989, NARUC created an office dedicated to tracking the federal nuclear waste management program and NARUC's policy department tracks it to this day.

NARUC has participated in numerous lawsuits against the DOE consistently seeking better performance and greater accountability from the federal government while protecting the interests of electricity consumers.

The first of these lawsuits was in 1995, wherein NARUC successfully countered the DOE's contention that they were not obligated to take the nuclear waste from the plants by January 31, 1998.

NARUC fought in court the inaction by DOE and the U.S. Nuclear Regulatory Commission (NRC) regarding the Yucca Mountain application and again the court's

government's ability to fulfill its outstanding obligation to take possession and dispose of the nation's spent nuclear fuel and high-level nuclear waste." The ASLB denied DOE's motion in June of 2010 and the NRC left the license application in place. Subsequently, NARUC filed a mandamus action in U.S. Court of Appeals for the District of Columbia Circuit, which on August 13, 2013, held that the NRC must continue work on the Yucca Mountain license application as long as funding was available. The NRC used the existing appropriated funds to complete the Yucca Mountain safety evaluation report (SER). Volume 3, released October 16, 2014, concluded DOE's Yucca Mountain repository design complies with safety and environmental standards. The final two SER volumes were released on January 29, 2015.

judgment vindicated NARUC's positions. NARUC argued that the NRC was in violation of the law when it suspended its review of the Yucca Mountain license application, and in August 2013, the court agreed.[4] The NRC had to continue until Congressionally appropriated funds were expended. Later that year, in November 2013, the court granted NARUC's request that the DOE suspend collection of Nuclear Waste Fund fees.[5]

With respect to the suspension of the collection of the fees, the court's decision was bittersweet. As noted previously, NARUC has always agreed with and supported the arrangement whereby the consumers of electricity pay for the NWPA nuclear waste management and disposal program. However, when the Administration threw out a multi-billion-dollar investment along with 30 years of work towards a national repository, and replaced it with nothing, NARUC had no choice but to seek to cut funding for a program that no longer existed. The fact is ratepayers and taxpayers have paid more than they should have for decades because of federal government inaction. Spent nuclear fuel and high-level nuclear waste continues to accumulate at plant sites, but not without cost. Every year of inaction costs your constituents between 500 and 800 million dollars from the federal coffers in legal judgement payments. The costs total nearly 2 million dollars per day.

Solutions and additional structural proposals to make the government waste disposal program more efficient have been the topic of discussions for literally

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[4] See, *In Re: Aiken Count, et al.,* which notes: ("Our more modest task is to ensure…agencies comply with the law as it has been set by Congress. Here, the Nuclear Regulatory Commission has continued to violate the law governing the Yucca Mountain licensing process. We therefore grant the petition for a writ of mandamus."), at: http://www.cadc.uscourts.gov/internet/opinions.nsf/BAE0CF34F762EBD985257BC6004DEB18/$file/11-1271-1451347.pdf (Last accessed April 7, 2024).

[5] See, *National Association of Regulatory Utility Commissioners v. DOE*, Case No. 11-1066 (Nov. 19, 2013), at: http://www.cadc.uscourts.gov/internet/opinions.nsf/2708C01ECFE3109F85257C280053406E/$file/11-1066-1466796.pdf (Last accessed April 7, 2024).

decades. In fact, this committee played a crucial role in the last Congressional step forward in the 115th Congress when the House passed NARUC-supported legislation (HR 3053) by an overwhelmingly bipartisan vote of 340 – 72 in 2018.

Over the past five to seven years, DOE has worked on interim storage solutions. NARUC is on record supporting that idea subject to very specific conditions, including progress on a permanent repository and a full analysis of the costs. Unfortunately, given the government's dismal track record in this area, it is clear siting interim facilities face the same resistance as siting permanent repositories, since all such efforts to date have failed.

However, much has changed over the past couple of years. In the 2025 Executive Order entitled Reinvigorating the Nuclear Industrial Base, the President requested that DOE assess spent nuclear fuel and provide a recommended national policy to support the management of spent nuclear fuel and high-level waste as part of the Order. In January 2026, DOE launched and advanced its Nuclear Lifecycle Innovation Campuses initiative, an action intended to rebuild and modernize a domestic, end-to-end nuclear fuel cycle through voluntary federal-state partnerships. DOE issued a request for information inviting states to express interest in hosting campuses that could co-locate fuel fabrication, enrichment, reprocessing or recycling of used nuclear fuel, waste disposition, advanced reactor deployment, power generation, advanced manufacturing, and related infrastructure. In July 2026, DOE selected Utah, Tennessee, Oklahoma, Louisiana, and Idaho as potential host states. West Viriginia was added to that list earlier this month. DOE signed memoranda of understanding with each of these states to continue exploring host arrangements.

NARUC's position is clear and longstanding: the federal government must fulfill its statutory and contractual obligation to remove spent nuclear fuel from reactor sites and provide for its safe, permanent disposal giving consumers of electricity from nuclear power plants the nuclear waste management program they have already paid for and deserve. NARUC has thoughtfully considered the country's viable options. In NARUC's resolutions, NARUC has outlined steps to put the nation's nuclear waste program back on firm footing:

1. **The first step must be for Congress to secure one or more geologic repositories for the permanent disposal of nuclear fuel and high-level radioactive waste. Congress should exercise oversight to ensure that DOE and the NRC are complying with the waste programs outlined in the NWPA.**

America needs a permanent solution to nuclear waste disposal. NARUC supports the federal government finding that the best, long-term solution to isolating nuclear waste from the environment is permanent disposal in a deep geologic repository, but we need to see credible, substantive progress toward achieving this goal. Congress selected Yucca Mountain as a permanent disposal site in 1987. Exhaustive legal and scientific scrutiny confirmed the site meets NRC's and EPA's stringent safety and environmental rules. The license review of Yucca was never completed. NARUC supports the calls for the establishment of a program to site, license, construct, and operate a second geologic repository for the permanent disposal of the nation's spent nuclear fuel and high-level radioactive waste. NARUC supports efforts to locate and site a second permanent repository through the Nuclear Lifecycle Innovation Campus process.

Recycling may warrant research, demonstration, and separate federal policy consideration. However, even if determined to be technically and economically feasible, reprocessing will not eliminate the need for a permanent repository. Further, the NWF is not a general innovation account or an industrial-development fund. The corpus was paid by electricity customers to support the federal government's statutory permanent disposal obligation, and NARUC would strongly oppose diverting funds from the NWF to private recycling, commercialization, or fuel-cycle ventures that would undermine the agreement ratepayers met.

2. **The Nuclear Waste Fund must be managed responsibly and used only for its intended purpose.**

The program must have access to the revenues generated by consumers' fee payments, if they resume, and to the balance of the NWF. Under no condition should the NWF fee be restarted until the Yucca Mountain License proceeding is complete or a second permanent repository is secured. A new DOE fee adequacy study that demonstrates the need for reinstatement is also a necessary pre-requisite to re-starting the fee. The DOE should not proceed to re-initiating a fee as long as program expenditures actually exceed annual interest accruing on the corpus of the NWF. To avoid misdirecting NWF fees to unrelated government obligations and provide for the gradual return of the corpus of the fund, Congress should mandate that no NWF fees can be collected in a fiscal year that exceed 90 percent of the Congressional appropriations for the fiscal year during which such fees are collected.

3. **If progress is made on licensing a permanent repository, it should be much easier to site Consolidated Interim Storage.**

Current reactor-site spent fuel storage is safe, but retaining spent fuel indefinitely at working reactor sites was never intended and is both inefficient and unacceptable. Continued storage at permanently shutdown plants imposes costs on ratepayers without equivalent benefits and prohibits economic reuse of the site.

Relocation and consolidation of nuclear waste may reduce the government's liability and improve security. However, use of NWF's for interim storage should be authorized only after careful consideration of the costs and benefits involved, including transportation costs and proximity to possible or likely permanent disposal sites, and final legal review of the Yucca Mountain License application or construction with benchmarks on a second repository is underway.

4. **Congress should consider assigning used fuel management to a new organization with better access to financing.**

Whether DOE has been unable to achieve its NWPA responsibilities due to mismanagement or to factors beyond its control can be debated, but the Blue Ribbon Commission on America's Nuclear Future report makes a sound case for creating a new organization, outside of DOE, with sole responsibility to manage nuclear waste. NARUC generally supports this concept, which would require legislation. Since the former waste management organization was disbanded in 2010, a new organization is needed (or the old one must be reconstituted) even if responsibility is retained by DOE.

The new organization should be charged to engage with States and local governments in a more collaborative manner that can be guided by a negotiated consent agreement among the involved parties, whether for storage or disposal facilities. The Nuclear Lifecycle Innovation Campuses initiative seems to be a step forward in such an engagement. NARUC holds that any campus concept involving used fuel, waste streams, or disposition should be transparent about scope, regulatory authority, transportation implications, cost responsibility, and how it fits within a national integrated waste management program.

NARUC can best represent the ratepayer interests through close communications with the DOE and any other new federal agency or organization involved in the nuclear waste program. As the Administration, DOE and Congress move forward, NARUC's steps create a solid foundation on which to build a viable spent nuclear fuel management program in accordance with the law.

NARUC commends all of you for your efforts to break the current logjam on nuclear waste policy. NARUC will assist in any way that we can. Thank you for your consideration.