

MEMORADUM OF EX PARTE COMMUNICATION WITH THE DEPARTMENT OF ENERGY

Meeting Date: March 31, 2015

Attendees

Ellen C. Ginsberg, Vice President and General Counsel, Nuclear Energy Institute (NEI); Scott Blake Harris, Chairman, Harris, Wiltshire & Grannis LLP; Steven Croley, General Counsel, Department of Energy (DOE); James (Ben) McRae, Assistant General Counsel, Department of Energy; and Anita Capoferri, Deputy Assistant General Counsel, Department of Energy

Meeting Summary

Mr. Harris and Ms. Ginsberg discussed DOE's Notice of Proposed Rulemaking (NOPR) regarding the Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation, 10 CFR Part 951, Docket No DOE-HQ-2014-0021, 79 Fed. Reg. 75076 (December 17, 2014).

Mr. Harris and Ms. Ginsberg elaborated on concerns previously identified by NEI and its members in the February 2015 workshop DOE held to obtain stakeholder feedback on the proposed rule. Ms. Ginsberg said the industry's overarching concern is to ensure the allocation method is equitable, and sufficiently simple and understandable to be easily evaluated and implemented.

Ms. Ginsberg highlighted the manpower and cost burden that domestic suppliers would bear if the proposed reporting requirements are not modified. She also highlighted the difficulty in some cases of producing the information DOE proposes for collection.

Ms. Ginsberg said the industry cannot meaningfully comment on the two allocation alternatives set forth in the NOPR given that one or more material terms are not provided. She highlighted that the calculation requires assumptions that may or may not be valid, and those assumptions significantly affect the outcome of the calculation on potential individual liability. Further, Ms. Ginsberg and Mr. Harris discussed the importance of providing sufficient information so that each supplier subject to the retrospective "call" can determine whether to mitigate the financial risk through an insurance vehicle or otherwise.

Submitted by:

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