

March 17, 2022

Office of Nuclear Energy

U.S. Department of Energy

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RE: Docket # DOE-HQ-2022-0006 Notice of Intent (NOI) and Request for Information (RFI)

Regarding Establishment of a Civil Nuclear Credit Program, 87 FR 8570 (Feb. 15, 2022)

Green Scissors is a coalition of environmental and taxpayer advocates. For nearly 30 years, the coalition has worked to reduce and eliminate wasteful and environmentally harmful government spending. It is in this spirit of fiscal and environmental responsibility that we submit these comments regarding the Civilian Nuclear Credit (CNC) program.

The \$6 billion appropriated to the CNC as part of the Infrastructure Investment and Jobs Act (IIJA) is a significant investment of our tax dollars. The Department of Energy (DOE) must ensure that these funds are spent prudently. This burden of responsibility is especially acute given the potential for this program to unleash negative consequences for ratepayers, taxpayers, and the climate alike.

The CNC program does not simply pick “winners and losers” in the electricity sector. Individual nuclear facilities, although heavily subsidized already, have not historically received direct payments from federal agencies. Neither for that matter have other producers of electricity. But the CNC program goes further: instead of subsidizing the nuclear industry at the expense of other power sources, it singles out individual reactors for support via a regulatory process. This makes it the most expansive and expensive direct intervention by a federal agency into electricity markets in recent memory.

If the best environmental outcome can be secured without spending our tax dollars, then those tax dollars should not be spent. That is the animating principle of the Green Scissors coalition. It is also why we were concerned to learn that the DOE has already committed to spending the entire \$6 billion regardless of how the program proceeds. We submit these comments in the hope that they inform a spirit of both fiscal and environmental prudence as the program is designed.

Category 2

The DOE is proposing to certify reactors for subsidization based on a criteria that includes economic need and the likelihood of imminent closure. But we are concerned that in the absence of stringent safeguards, there is ample room for this criteria to be abused. In particular, we highlight two potential dangers: 1.) nuclear operators may inflate the risk of closure in the absence of strict, third party verification of economic claims and 2.) nuclear operators may benefit from an overly generous definition of the “costs of operation” resulting in the transfer of liabilities from reactor owners to taxpayers.

Economic Need

The nuclear industry has a long history of exaggeration when large subsidies are involved. State legislatures and Public Utility Commissions have sometimes learned too late that evidence justifying major bailouts was faulty or outright fraudulent. The CNC must not be another example in this long history.

We are encouraged that the DOE is purportedly hiring a “Big Three” accounting firm to evaluate the economic claims of nuclear operators. This is a strong sign that the agency intends to subject industry claims to third-party verification. On the other hand, major private sector accountants are expensive and likely already employed by likely applicants of the CNC program. To save the taxpayer and mitigate potential conflicts of interest, we encourage the DOE to use existing federal capacity to vet claims about reactor economics. Although the DOE likely lacks the internal capacity, the Federal Energy Regulatory Commission (FERC) does not. It is stacked with the relevant technical staff and is the best equipped of any federal agency to review the operating costs of merchant generators and bidding behavior in competitive wholesale and capacity markets. If consulting with FERC saves the taxpayer the cost of a major accounting firm and results in a higher level of third-party scrutiny, the DOE should consider the cheaper option.

Operating Costs

This program represents a massive taxpayer expenditure and should not allow for funds to be siphoned towards the enrichment of reactor owners due to loose restrictions on eligible uses. Because the intent of the program is to provide an economic “bridge” for nuclear generators that are capable of continued, financially self-sustaining operation, we therefore encourage the DOE to use a definition of operating costs that includes only those portions of the owners’ costs attributable to the period of the CNC award, and that satisfy other certification criteria. For instance, capital costs that will be amortized after the CNC award, decommissioning costs, advocacy expenses and trade association dues, and relicensing costs should be excluded. In addition, costs arising from nuclear regulatory violations and corrective actions must be disallowed; DOE should review any violations and safety performance findings issued by the Nuclear Regulatory Commission for compliance with the certification criteria, and determine if the award should be discontinued and if any amounts must be recaptured.

Category 3

The DOE is proposing to certify reactors based on the risk of premature closure increasing emissions. But this criteria too has the potential to be abused. The reality is that electricity markets are complex mechanisms that respond to a variety of endogenous and exogenous inputs. From economic growth and extreme weather events to fuel prices and the mining of cryptocurrency, it is simply not credible to ascribe every fluctuation in emissions to the retirement of individual reactors. That is why we encourage the DOE to set a high causal standard for connecting potential reactor retirements with increased GHG emissions. Choosing too narrow a timeframe over which to consider emissions increases may misrepresent an overall positive trend in emissions reductions and result in some reactors receiving undeserved subsidies. A fairer temporal snapshot is likely the four year window of the CNC award itself, with the potential for net emissions increases considered across an appropriate regional jurisdiction, such as an RTO/ISO. This tough but fair standard would protect the taxpayer by preventing reactors whose closure would not increase emissions from qualifying for credit payments.

Category 7

The IIJA gives the DOE broad authority to require applicants for certification to include any “other information” relevant to the implementation of the act. This is a powerful tool that the DOE should use to ensure that the program does not become a burden for taxpayers or a risk to the climate.

Ultimately, the most important questions for decarbonizing the electricity sector are: how much can emissions be reduced, how quickly, and at what cost? If preserving merchant reactors is the most expensive option to achieve this goal, then taxpayers should not be subsidizing it. Therefore, we recommend that no CNC funding be allocated without an analysis of alternatives. If projections show emissions reductions would still be achieved more cheaply without the reactor within the four-year period of the CNC, then the intervention is imprudent for taxpayers and ratepayers alike.

We appreciate this opportunity to provide input on the CNC and look forward to continued engagement with the DOE on the responsible administration of this program.

Respectfully,

The Green Scissors coalition

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