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November 7, 2024

NYS Energy Research and Development Authority
By upload to https://portal.nyserda.ny.gov/Public_Comments

Re: Draft Blueprint for Consideration of Advanced Nuclear Technologies

NOTE: This comment letter is in addition to my comment letter dated October 8, 2024

As part of the vetting process for any Advanced Nuclear Technologies within New York, the State needs to convene an expert panel and conduct a transparent process to identify an enforceable mechanism for safe disposal of the nuclear waste resulting from such technologies. No such technologies should be started or allowed to move forward until the panel and process have successfully identified an enforceable mechanism. State agencies or authorities such as NYSERDA and the Public Service Commission may be appropriate entities to convene such a panel and oversee such a process.

Proponents of nuclear power tend to characterize the resulting nuclear waste as a non-problem or minimal problem. If this were true, any developer of new nuclear technologies (or any proponent thereof) should have no objection to accepting long-term responsibility and liability for the nuclear waste generated by their technologies.

- If any proponent or developer of new nuclear technologies has no objection to accepting long-term responsibility and liability for the nuclear waste generated by their technology, then the work of the aforementioned panel and process could be accomplished quickly. The work would consist of little more than crafting of enforceable language to accomplish such responsibility and liability, perhaps including terms such as “heirs and assigns” to ensure that the responsibility and liability are durable.
- If any proponent or developer of new nuclear technologies objects to accepting long-term responsibility and liability for the nuclear waste generated by their technology, then the panel and process would need to delve into the details of the various long- and short-term pros and cons, including waste issues and the reluctance of proponents and developers to take responsibility.

Neither the State nor any proponent or developer of new nuclear technologies should try to dismiss the above comment based on claims that responsibility and liability for nuclear wastes lie entirely with the federal government and are governed by federal regulations such as those of the Nuclear Regulatory Commission. Dismissing the above comment on this basis would run into several problems:

- The question raised in the Draft Blueprint for Consideration of Advanced Nuclear Technologies does not deal with regulation of existing waste; it relates to the wisdom, or lack thereof, of adding new nuclear power generation to New York’s energy mix. This

decision lies squarely with the State, not the federal government. The decision needs to be based on an honest evaluation of the facts and risks, including risks associated with nuclear waste produced by any new nuclear power generation in New York.

- The current trend toward federal deregulation, based partly on *Loper Bright Enterprises v. Raimondo*, 603 US __ (2024), and partly on declared intentions of the incoming executive branch to cut regulations in various fields, raises uncertain (but not trivial) concerns about the ongoing protectiveness of federal oversight of nuclear materials. The State cannot reasonably ignore such uncertainties or abdicate its responsibility to take them into consideration.
- As noted in my October 8th comment letter, the Draft Blueprint’s claim that “the responsibility for building a waste disposal plan for advanced nuclear technologies rests with the federal government” encounters the problem that there is no enforceable mandate that requires the federal government to create or build a waste disposal plan. The decades of inaction in building a disposal facility for spent fuel or high-level waste, whether at Yucca Mountain or elsewhere, illustrates the problem of assuming that the waste-disposal responsibility rests with the federal government. Here again, the State’s decision on adding nuclear to the energy-generation mix cannot reasonably ignore the federal inaction or abdicate its responsibility to take such inaction into consideration.

Thank you for this opportunity to submit comments. As noted above, this comment letter is in addition to my comment letter dated October 8, 2024

Sincerely,

A handwritten signature in blue ink, appearing to read "Rayd Vaughan", with a long horizontal flourish extending to the right.

Raymond C. Vaughan, Ph.D., P.G.