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Comments on H.R.2480, The Uranium Enrichment Reorganization Act

Statement for the Record of
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Before the
Committee on Science, Space, and
Technology
House of Representatives

Mr. Chairman and Members of the Committee:

We are pleased to submit this statement for the record to the Committee as it considers legislation that would restructure the Department of Energy's (DOE) uranium enrichment program. This statement presents our views on the future of DOE's uranium enrichment program and focuses on the Uranium Enrichment Reorganization Act (H.R.2480).

H.R.2480 would restructure DOE's enrichment program as a government corporation subject to the Government Corporation Control Act. In doing so, it would, among other things, allow the corporation to set prices to maximize long-term returns; establish a fund to meet future decontamination, decommissioning, and remedial action costs associated with past uranium enrichment activities[1]; and require the government to pay its share of the costs to clean up mining wastes generated under past government contracts.

In summary, we have long supported restructuring the program as a government corporation and establishing a decommissioning fund. We believe H.R.2480 goes a long way toward establishing clear objectives for the enrichment program and allowing it to operate in a more businesslike manner in a competitive market. We

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[1]At the end of their useful lives, radioactively contaminated facilities must be decontaminated and decommissioned to ensure that they do not cause environmental damage.

are also pleased that the bill would direct the government to meet its financial obligation to clean up mill tailings (mining waste) sites. However, we have several concerns with the proposed legislation that we would like to highlight at this time.

-- We believe H.R.2480 should include a specific goal to recover past government costs associated with DOE's uranium enrichment program. At the end of fiscal year 1989, we estimate that DOE had not recovered about $9.9 billion in past costs from its customers. H.R.2480 would limit the government's cost recovery to unspecified dividends on stock issued by the new corporation to the Treasury and proceeds from the sale of that stock to the public, if and when the corporation is privatized. Unless problems related to licensing uncertainties, increased competition, and billions of dollars in liabilities are adequately resolved, we doubt whether the corporation will ever be sold. Therefore, we believe that the Congress should set a definite cost recovery goal rather than rely on unspecified dividend receipts and uncertain stock sales.

-- We support the establishment of a decommissioning fund to pay current and future cleanup costs with annual matching contributions from DOE and the corporation. Past production from DOE's enrichment plants for defense and commercial customers has been about equal. Therefore, we

believe that cleanup costs for facilities transferred under the proposed legislation should be equally shared, but the cost for cleaning up any new facilities should rest with the new corporation. H.R.2480, while providing for annual matched funding, requires that cleanup costs be allocated between the government and corporation on the basis of the time period during which the contamination occurred. This is an attempt to separate past commercial and defense activities. Unfortunately, cleanup costs are largely undefined, and DOE does not have adequate information to allocate these costs between past commercial and defense activities. We believe that by requiring matching payments the fund adequately assigns cleanup responsibility on the basis of past production, and further attempts to allocate costs will lead to confusion and disputes between the new corporation and DOE.

Before I discuss these issues in detail, I will briefly describe DOE's enrichment activities and the proposed legislation.

OVERVIEW OF THE URANIUM ENRICHMENT PROGRAM

The federal government has enriched uranium for defense purposes and commercial nuclear power plants for over 30 years at three gaseous diffusion plants located in Oak Ridge, Tennessee; Portsmouth, Ohio; and Paducah, Kentucky. Throughout the 1970s, the

anticipated growth of nuclear power led DOE to expand the enriched uranium production capacity at its three gaseous diffusion plants and begin construction of a new enrichment plant using a different production technology--gas centrifuge--at Portsmouth. However, the anticipated demand for enriched uranium did not materialize, and foreign enrichment suppliers cut into DOE's domestic and foreign markets. In 1985, DOE halted construction of the gas centrifuge plant and shut down the Oak Ridge plant.

By 1986, the program was beset by many problems that left it facing a bleak financial future, including potential multibillion dollar payments for electricity not used under long-term "take or pay" contracts initiated with the Tennessee Valley Authority in the mid-1970s, when demand was expected to increase rapidly. Although some problems have been resolved, DOE today faces multibillion dollar environmental and decommissioning costs and increasing foreign competition. In addition, DOE's responsibility for past unrecovered costs has not yet been defined.

PRINCIPAL FEATURES OF THE PROPOSED LEGISLATION

H.R.2480 proposes, among other things, to do the following:

-- Restructure DOE's enrichment program as a government corporation subject to the Government Corporation Control Act.

-- Allow the corporation to set prices to maximize long-term returns.

-- Require the corporation to issue capital stock initially valued at $3 billion to the United States.

-- Require the corporation to pay dividends on this stock unless there is an "overriding" need to retain earnings for corporate functions, such as research and development.

-- Require the corporation to report to the President within 5 years on the possible sale of the corporation to the private sector.

-- Authorize the corporation to borrow up to $2.5 billion from the private sector by issuing bonds that would not be guaranteed by the government.

-- Assign responsibility for deploying the next generation of uranium enrichment technology--the atomic vapor laser isotope separation (AVLIS) process--to the corporation.

-- Establish a fund to meet decontamination, decommissioning, and remedial action costs at enrichment plants.

-- Require the corporation to seek licenses from the Nuclear Regulatory Commission (NRC) for the existing plants and any new enrichment facilities.

GAO'S VIEWS ON THE PROPOSED LEGISLATION

We would like to discuss our views on several key issues embodied in H.R.2480: the appropriate organizational structure of the program; past unrecovered costs; the feasibility of privatization; future decontamination, decommissioning and environmental cleanup costs; and the clean up of mill tailing sites.

Future Structure of the Enrichment Program

DOE believes that the enrichment program should be restructured as a government corporation. Over the last several years, we have also recommended that the enrichment program be restructured as a government corporation. We believe that a government corporation could establish more flexible prices to stimulate demand among utilities, particularly those that have not renewed their contracts with DOE because they are waiting to see where the program is headed. Presently DOE is hampered by government processes that do not allow it to act quickly in a

competitive market. Further, DOE's ability to set flexible prices is limited by current law.

Past Unrecovered Costs

Total uranium enrichment program costs have not been recovered through revenues. Although the Atomic Energy Act requires the recovery of all government costs, we recognize that the existing program cannot expect to generate revenues sufficient to repay past unrecovered costs that we calculate to total about $9.9 billion at the end of fiscal year 1989. We note that this amount is not too different from Smith Barney's calculation of total past costs.[2] However, Smith Barney assumed that DOE could reduce total costs by making various write-offs and policy decisions and concluded that DOE's customers had overpaid the government by about $1.2 billion. However, DOE does not have the statutory authority to make these write-offs and policy decisions; only the Congress can do so.

Because annual imputed interest expense on past unrecovered costs is approaching $1 billion, we recognize that full cost recovery through revenues is not feasible. Therefore, we have encouraged the Congress to allow DOE to write off costs associated with unproductive program assets, such as the abandoned gas

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[2]In January 1990, DOE entered into a contract with Smith Barney, Harris Upham and Co. Incorporated, to assess the feasibility of restructuring the enrichment program. Smith Barney delivered the report to DOE on May 15, 1990.

centrifuge facilities. This action, although requiring a change in existing legislation, follows generally accepted accounting principles and would provide a practical approach to help resolve the problem of unrecovered costs. DOE wrote off unproductive assets in 1984 and 1985 (without statutory authority), which left unrecovered costs at that time of about $3.4 billion. Since that time, DOE has repaid about $400 million to the Treasury and is now pricing its uranium enrichment services to recover about $3 billion over the next 12 years.

H.R.2480 would authorize the write-off of unproductive assets but does not set a specific cost recovery goal. DOE projects that the corporation would generate over $3 billion in net income by the year 2000 and over $8 billion by 2008. Although these projections do not include any investment in AVLIS (perhaps $1 billion or more) or any estimate of the amount of dividends to be paid on the government corporation's stock, they illustrate the considerable earning power remaining in the current production facilities.

Therefore, we believe that the Congress should set a specific repayment amount consistent with DOE's projections of the corporation's expected earnings over the next 10 to 15 years, rather than rely on the receipt of unspecified dividends and/or uncertain stock sales. On the basis of DOE's projections, we believe the repayment amount should be about $3 billion. We would also suggest that the Congress provide certain flexibility to the

corporation in meeting a specific cost recovery goal, such as suspending interest payments. Such measures may be needed to keep the corporation competitive if substantial investments are needed in new technology or environmental costs increase more than expected.

Feasibility of Privatization

We have several concerns about the prospects for privatization, which DOE believes would result in the federal government receiving the market value of its past investment. Let me just mention just a few:

-- Licensing: Before the enrichment corporation could be privatized, it would have to obtain a license for each of its operating plants from NRC. Because current law exempts DOE from obtaining an NRC license for its enrichment plants, no enrichment facility has ever been licensed in this country. Therefore, unforeseen licensing problems may exist since the two existing production facilities are 30 to 40 years old.

-- Environmental and decommissioning costs: These are largely undefined but could total billions of dollars. These costs would inhibit future private investment, unless the government's liability is clearly established. Smith

Barney reported that DOE's estimates for decommissioning the Oak Ridge plant alone could be as much as $8 billion, depending on the cleanup required. If we assume similar costs for the three existing plants, these costs could total $24 billion. Further, DOE has not completely identified or characterized enrichment plant waste sites, and past experience indicates that such costs increase as more information becomes available. In addition, inflation could significantly increase these costs.

-- Increasing competition: An oversupply of enrichment capacity exists worldwide, which will make the lucrative U.S. market a "battleground" for international suppliers as existing DOE contracts expire in the mid-1990s. In particular, DOE estimates that the Soviet Union has excess capacity of up to 9 million separative work units (a measure of the effort required to enrich uranium). The Soviet Union has recently dominated the enrichment market by selling its product for about 50 percent less than DOE's price. This excess capacity, coupled with domestic utilities' need to purchase enriched uranium at the lowest cost, leads DOE to expect that the Soviet Union will become more active in the U.S. market. Also, DOE reports that China is becoming much more aggressive in the U.S. enrichment marketplace. Finally, a for-profit consortium of three domestic utilities; URENCO (a European producer);

and Fluor-Daniel, Incorporated (a U.S. firm) has announced plans to build an enrichment plant in Louisiana, using the more cost-efficient gas centrifuge technology.

Decommissioning and Environmental Cleanup Costs

We have long said the decommissioning costs should be paid by the beneficiaries of the services provided, in this case DOE's commercial and government customers. H.R.2480 would require the corporation to establish a fund for the eventual decontamination and decommissioning of all enrichment plants. It would also require the corporation and DOE (as provided by appropriations) to annually make matching payments to the fund, reflecting the fact that production over the life of the existing plants for both government and commercial customers has been about equal. The new corporation would be responsible for the cleanup costs at any new facility.

However, H.R.2480, in an attempt to separate past commercial and defense activities, would also require that cleanup costs be allocated between the government and the corporation on the basis of the time period in which the activity causing the contamination occurred. Unfortunately, cleanup costs at the enrichment sites are largely undefined, and available information does not exist to accurately allocate these costs. We believe that requiring equal contributions to the fund adequately reflects DOE's and the

corporation's responsibilities, and further attempts to allocate such costs will only lead to confusion and disputes between DOE and the corporation.

U.S. Uranium Industry

H.R.2480 would establish a program to help pay for cleaning up uranium process waste (mill tailings) sites resulting from past government contracts. The proposed bill would require the Secretary of Energy to reimburse responsible parties up to a certain dollar limit for cleanup costs associated with uranium sold to the government. Since 1979, we have said that the government should pay its share of the cleanup costs associated with the production of uranium under these contracts.[3]

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In summary, we believe that H.R.2480 takes needed steps toward establishing clear objectives for the enrichment program and would allow the new corporation to better operate as a business entity. H.R.2480 would also help resolve several long-term issues that, in our view, seriously challenge the program's future, including the need to pay billions of dollars in environmental and

[3]Cleaning Up Commingled Uranium Mill Tailings: Is Federal Assistance Necessary? (EMD-79-29, Feb. 5, 1979).

decommissioning costs at a time when competition is expected to increase.

We have pointed out several specific concerns about the proposed legislation. In particular, we believe the proposed bill would be strengthened by including a specific cost recovery provision. Because DOE projects that the corporation's future earnings could be substantial, we suggest that the Congress require the repayment of $3 billion, rather than rely solely on unspecified dividends and/or uncertain future stock sales that may not materialize unless problems related to licensing uncertainties, increased competition, and billions of dollars in liabilities are adequately resolved.

We appreciate the opportunity to submit our views on H.R.2480 for the record and are willing to address follow-on questions that the Committee may have.