United States General Accounting Office 136593

GAO Testimony

For Release
on Delivery
Expected at
10:00 a.m. EST
Wednesday
August 10, 1988

The Future of DOE's Uranium Enrichment Program

Statement of
Keith O. Fultz, Senior Associate Director
Resources, Community, and Economic
Development Division

Before the
Subcommittee on Energy and Power
Committee on Energy and Commerce
House of Representatives

Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to present our views on the future of the Department of Energy's (DOE) uranium enrichment program, which was established to promote national energy security goals while recovering government costs. My testimony today will focus on H.R.4489, H.R.4934, and H.R.4975. All three are titled the Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1988 and would restructure the enrichment program as a government corporation while providing different means of financial support for the domestic uranium mining industry. Since H.R.4934 and H.R.4975 are nearly identical, hereafter in this testimony we will refer only to H.R.4975.

In summary, we have pointed out in reports and testimonies over the last several years that the Congress needs to reevaluate the enrichment program in light of its current business environment, establish clear objectives for it, and address its many problems. Both H.R.4489 and H.R.4975 would restructure the enrichment program as a government corporation subject to the Government Corporation Control Act. In general, we see merit to these proposals because they would enable the corporation to operate in a business-like manner with clear objectives.

However, we do have some concerns about both H.R.4489 and H.R.4975. As you know, Mr. Chairman, the Atomic Energy Act

requires that the government's costs associated with producing enriched uranium be recovered over a reasonable period of time. At the end of fiscal year 1987, DOE had not recovered about $9 billion. Both proposals would limit the recovery of past costs to the repayment of $364 million and the receipt of stock issued by the corporation. Most of the amount repaid would be channeled into a fund that would be used to clean up uranium mill tailings and, in the case of H.R.4975, purchase domestic uranium ore. DOE officials told us in 1986 that they could operate competitively and price their services to recover about $3.4 billion. We believe that setting a low repayment amount ignores DOE's pricing strategy and the productive capability of the existing enrichment facilities. Therefore, we oppose setting the amount at only $364 million.

Also, both proposals would establish a fund to decontaminate and decommission the corporation's property. We should point out, however, that the proposals do not address the costs--estimated to be about $1 billion--to decommission DOE's Oak Ridge plant nor do they specify how DOE will pay for these costs.

Although we have not analyzed the impact of the proposals on the domestic uranium market, we have some observations to offer. Both H.R.4489 and H.R.4975 would establish a fund to clean up mine sites. In addition, H.R.4489 would impose fees on utilities based on the amount of foreign ore used in their nuclear power plants,

and H.R.4975 would provide for the purchase of at least $750 million of uranium ore from domestic producers. However, DOE already has a substantial stockpile of ore that it does not expect to deplete for at least 10 years.

Before we provide a more detailed discussion of our views on these proposals, I will briefly describe DOE's enrichment activities and highlight the principal features of the proposals.

OVERVIEW OF THE URANIUM ENRICHMENT PROGRAM

The federal government has enriched uranium for national defense purposes and commercial nuclear power plants for over 30 years. Throughout the 1970s, the expected growth of nuclear power led DOE to expand enriched uranium production capacity at its three gaseous diffusion plants, begin construction of a large-scale gas centrifuge enrichment plant, and accumulate a stockpile of enriched uranium.

However, the anticipated demand for U.S. enrichment services did not materialize, and foreign suppliers cut into DOE's domestic and foreign markets. By 1986 the program was beset by many problems that left it facing a bleak financial future. The problems included (1) multibillion dollar payments for electricity not used under long-term contracts with the Tennessee Valley Authority (TVA), (2) market uncertainties due to ongoing litigation

with domestic uranium miners over possible restrictions on DOE's enrichment of foreign uranium ore, (3) potentially large decommissioning and environmental costs for the aging plants, and (4) billions of dollars in unrecovered costs.

Some of these problems have been resolved. For example, on December 31, 1987, TVA and DOE agreed to set the costs for unused power at about $1.8 billion through 1994 when the contracts expire. In addition, recently the U.S. Supreme Court rendered a decision on the domestic uranium miners lawsuit. In effect, the ruling provides that DOE has to restrict the enrichment of foreign uranium ore only if the restriction would make the domestic uranium industry viable.

PRINCIPAL FEATURES OF THE PROPOSED LEGISLATION

Today we will discuss some of the principal features of H.R.4489 and H.R.4975. Both are similar to S.2097, the Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1987, passed by the Senate on March 30, 1988. H.R.4489 proposes, among other things, to:

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

-- Require the corporation to issue capital stock to the United States based on the 1987 book value of the program's assets. The United States cannot sell, transfer, or convey the stock until authorized by law.

-- Require the corporation to repay $364 million within 20 years. The $364 million, called the initial debt, and the stock issued by the corporation would represent the recovery of all past costs.

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

-- Establish a decontamination and decommissioning fund for the corporation's property.

-- Exempt the corporation from licensing by the Nuclear Regulatory Commission.

H.R.4489 would also establish a uranium mill tailings fund to clean up specified sites. The fund would be administered by the Secretary of Energy. Contributions to the fund would be made by states, mine owners, and utilities with licensed nuclear power plants. In addition, the federal government would contribute $300

million, primarily funded by the corporation's repayment of the initial debt. H.R.4489 would also impose fees on domestic utilities based on the amount of foreign uranium ore used in their nuclear power plants.

Although H.R.4975 has many similarities to H.R.4489, it also contains a number of differences. For example, it would establish a uranium revitalization fund made up of contributions from states, mine owners, fees from utilities to total $1 billion, and $450 million from the new corporation ($300 million from the repayment of the initial debt and $150 million from sales). The fund would be used to clean up mining sites and purchase at least $750 million of domestic ore through 1994. In addition, the proposal would require the Nuclear Regulatory Commisssion to promulgate licensing regulations within 4 years from the date of enactment and would require the new corporation to seek a license as soon as possible after the new regulations take effect. However, the proposal would not impose a fee on utilities that use foreign ore.

GAO'S VIEWS ON THE PROPOSED LEGISLATION

We believe that the Congress must answer three key questions in deciding the future of the enrichment program.

1. What is the appropriate organizational structure for the program?

2. What amount of past costs should be recovered?

3. What should DOE (or the new corporation) do for the domestic uranium mining industry?

Let me briefly discuss our views on both proposals as they relate to these three questions and suggest some modifications for your consideration.

Future Structure of the Enrichment Program

Both the administration and DOE believe that the enrichment program should be restructured as a government corporation. Both contend that this structure would allow the enterprise to operate in a competitive, business-like manner with clearer objectives, free it from government budgetary and other limitations, and permit more flexible relations with its customers.

Because of government budgetary restrictions, DOE has taken cost-cutting actions that may threaten its ability to be competitive in the future. For example, DOE cut fiscal year 1987 production costs by meeting demand from enriched uranium inventories. After the inventory is depleted, DOE may be forced to

produce at uneconomic levels to meet demand by operating at higher production levels that use large amounts of electricity. If this occurs, DOE estimates that costs could increase by about $80 million over the next 4 to 5 years. In another attempt to cut costs, DOE did not request fiscal year 1988 funds for research on an energy-efficient laser technology, although research and development is 3 to 5 years ahead of foreign competitors and offers the best long-term hope for the enrichment program to be competitive. The Congress, however, restored funds for this program.

Although we generally oppose new government corporations, we recognize that under certain conditions they are justified. The enrichment program meets many of the criteria generally believed to be conducive to corporate management, such as performance of a business function requiring many transactions with the private sector. However, if a uranium enrichment corporation is formed, we believe it should be subject to the Government Corporation Control Act. The act requires the corporation's finances to be part of the federal budget and sets forth, in part, audit and budget oversight provisions that may not apply to other federally chartered corporations. H.R.4489 and H.R.4975 would establish a government corporation.

In addition, both proposals would require an independent accounting firm to audit the financial statements of the

corporation in those years that we do not conduct a financial audit. The proposals would also require us to review each of the accounting firms' audits. Although we strongly support the use of independent audits, we would prefer to review them at our discretion rather than being required to do so.

Past Unrecovered Costs

Although present legislation requires the recovery of all government costs, we recognize that the existing program cannot expect to generate revenues sufficient to pay past costs that totaled about $9 billion at the end of fiscal year 1987. According to DOE, no price for its enrichment services would generate sales over the next 10 years sufficient to recover this amount, unless domestic utilities were required to purchase from DOE.

Because we recognize that full cost recovery is not feasible, we recommended in our October 1987 report, Uranium Enrichment: Congressional Action Needed to Revitalize the Program (GAO/RCED-88-18), that the Congress allow DOE to write off the costs associated with unproductive program assets. This action, although requiring a change in existing legislation, would follow generally accepted accounting principles and would provide a practical approach for helping to resolve the problem of unrecovered costs. By writing off unproductive assets in 1984 and 1985 (without legal authority), DOE reduced the unrecovered costs at that time to about $3.4

billion. DOE officials told us that the write-off allows the program to operate competitively and generate revenues to recover the $3.4 billion. By setting a much lower repayment amount, H.R.4489 and H.R.4975 ignore DOE's pricing strategy and the productive capability of the existing enrichment facilities. Therefore, we oppose setting the repayment amount at only $364 million. We also note that a substantial portion of the $364 million--$300 million under both proposals--would be directed to the clean up of mine sites and/or the purchase of domestic ore.

We would like to make one other point concerning program costs. We believe that DOE needs to act now on its responsibility to decontaminate and decommission the enrichment plants. We have long supported the concept that decommissioning costs should be paid by the current beneficiaries of the service received. However, DOE has not collected even $1 to decommission its three diffusion plants, although the Oak Ridge plant is shut down. In our 1987 report, we recommended that the Congress require DOE to recover decommissioning costs. Both proposals would require the corporation to establish a fund for future decommissioning activities and to assess the costs and needed revenues every 2 years. However, the proposals would not transfer the Oak Ridge plant to the new corporation. Its decommissioning costs--estimated to be over $1 billion (1987 dollars)--will remain DOE's responsibility. In addition, neither proposal specifies how DOE will pay these costs.

Uranium Miners

Section 161(v) of the Atomic Energy Act requires DOE to restrict the enrichment of foreign uranium to the extent necessary to ensure a viable U.S. uranium mining industry. Since 1984, DOE has concluded that the industry is not viable but has not taken any action to revive it, such as restricting the enrichment of foreign uranium ore. DOE has stated that such action would not be sufficient to revive the industry and could cause its customers to turn to foreign enrichment suppliers. The uranium miners argue that DOE's concerns are not valid because foreign enrichment suppliers do not have excess capacity to meet the needs of DOE's customers and would not add new capacity because of their concerns that the Congress might limit the importation of foreign enriched uranium.

In December 1984, several uranium producers filed suit asking the U.S. District Court in Colorado to order DOE to, among other things, limit imports of foreign uranium to ensure the U.S. uranium industry's viability. The court ruled in favor of the miners, but on June 15, 1988, the U.S. Supreme Court ruled in effect that DOE has to restrict the enrichment of foreign uranium ore only if such restrictions would make the domestic uranium industry viable.

Both H.R.4489 and H.R.4975 would provide support to the U.S. uranium mining industry. The method of support, however, differs

between the proposals. H.R.4489 would impose a fee on utilities based on the amount of foreign uranium ore used in their nuclear power plants through the year 2000. On the other hand, H.R.4975 would require the new corporation to purchase at least $750 million of domestic ore through a competitive bid process.

We have not assessed the impact of either proposal on the uranium market. However, we would like to point out that DOE already has a uranium ore inventory that it uses to meet defense production needs and optimize production costs. DOE expects to use some of the inventory--from about 1,500 to 5,000 metric tons per year--to reduce production costs. As of December 1987, DOE's inventory totaled about 53,000 metric tons. Thus, the administration's proposal will substantially increase an already sizable inventory that will not be depleted for at least 10 years.

In summary, we believe that both proposals provide a mechanism to establish clear objectives for the enrichment program and address some of its problems. However, we strongly suggest, Mr. Chairman, that you and the Subcommittee establish a higher cost repayment goal. In addition, we are concerned that the potentially high cost to decommission the Oak Ridge plant is not addressed by these proposals and that a stockpile of uranium ore already exists to meet defense and other needs.

We hope our views and suggestions are useful to you in the legislative process. We would be pleased to respond to any questions you or the Members of the Subcommittee may have.