

Beyond Nuclear • Center for Biological Diversity • Clean Water Action  
Environment America • Friends of the Earth • Greenpeace  
League of Conservation Voters • Natural Resources Defense Council  
Nuclear Information and Resource Service • Public Citizen • Sierra Club  
Southern Alliance for Clean Energy • Southern Oregon Climate Action Now

June 20, 2017

Re: Opposition to H.R. 1551 – amending tax credit provisions for “advanced” nuclear power

Dear Speaker Ryan and Minority Leader Pelosi:

On behalf of our millions of members we are writing to register our strong opposition to H.R. 1551 that would eliminate the placed-in-service date for the nuclear production tax credit, which is currently January 1, 2021. It would also allow public power companies to receive the benefit of the federal production tax credit even though they pay no taxes.

Despite H.R. 1551’s misleading title, the production tax credit it extends is not designated solely for new, supposed “advanced” nuclear technologies. Rather, reactor designs that were approved over twenty years ago are eligible as described in the bill analysis by the Joint Committee on Taxation, “*An advanced nuclear facility is any nuclear facility for the production of electricity, the reactor design for which was approved after 1993 by the Nuclear Regulatory Commission.*”

The nuclear industry is once again demonstrating that it is not only dirty and dangerous but that it is also not cost competitive. Despite promises that this time would be different, the four Toshiba-Westinghouse AP1000 nuclear reactors under construction in the U.S., two at Southern Company’s Plant Vogtle in Georgia and two at SCANA’s V.C. Summer plant in South Carolina, have yet again shown that the nuclear industry is incapable of building new reactors within budget or on time even with significant federal and state financial incentives and new, streamlined federal licensing processes.

Reports issued in recent weeks show that the costs of these projects are out of control, and falling further and further behind schedule. Both are approximately 40% complete in terms of construction, yet have already more than doubled in cost and projected construction time. When construction started in 2009, Vogtle 3 and 4 were projected to cost a total of \$14 billion and to begin generating electricity in 2016 and 2017, respectively. Eight years later, the reactors may not be completed until 2022 and 2023, if ever, and at an estimated total project cost of \$29 billion.<sup>1</sup> Summer 2 and 3 were projected to cost \$11 billion, but overruns have pushed the total to at least \$22.9 billion.<sup>2</sup> Consequently, utility customers in both states are suffering as they are paying in advance for the financing costs associated with the projects far longer than initially predicted and will ultimately face increasing bills because of the projects’ costs overruns.

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<sup>1</sup> Hals, Tom. “Group says Georgia nuclear plant costs rise to \$29 billion.” Reuters. June 15, 2017. Available at <http://www.reuters.com/article/us-toshiba-accounting-westinghouse-bankr-idUSKBN1962YH>

<sup>2</sup> Friends of the Earth. “South Carolina Electric Cooperatives Report Stunning \$8.9 Billion Already Sunk into Troubled VC Summer Nuclear Reactor Construction Project, by SCE&G and Santee Cooper.” June 15, 2017. Available at <https://tinyurl.com/yb97rexx>

***H.R. 1551 would unfairly reward Southern Company and SCANA Corp. for not being able to complete these projects on time, providing them each with more than \$1 billion<sup>3</sup> in taxpayer-provided handouts to shield their shareholders from the financial responsibility of pursuing inherently risky, uneconomical projects.*** Perhaps even worse, eliminating the placed-in-service date will provide an incentive for yet other utilities to make the same mistakes.<sup>4</sup>

The purpose of tax incentives, whether for nuclear, renewable energy, or other technologies, is to support innovation and technological leadership in the energy sector and to drive the commercialization of promising new technologies. When the nuclear production tax credit was created in 2005, Congress hoped to support a revival of nuclear reactor construction. Only four out of thirty-two reactors proposed since 2005 ever began construction, and the vast majority of the rest have been cancelled or indefinitely shelved.

The failures to bring any of the four reactors online within the fifteen-year period of the tax credit program demonstrates that the technology is an even greater failure than the first generation of reactors, and it will never be widely commercialized. It is simply not a justified or worthy investment of taxpayers' money to grant the owners of these reactors the extraordinary relief of billions of dollars in subsidies for projects that hold no promise for the U.S. energy sector. It should not be forgotten that Southern Company's expansion of Plant Vogtle has already received substantial taxpayer support through the \$8.3 billion in federal nuclear loan guarantees and the public/private cost-sharing support during the permitting and licensing process.

Finally, we oppose H.R. 1551 because the legislation establishes an expensive precedent by creating brand-new tax credit value for any not-for-profit project partners that can only be transferred to all for-profit project partners. Both the Vogtle and Summer projects feature a combination of both for-profit and not-for-profit utilities. Not-for-profit utilities, such as rural cooperatives, municipal or state-owned utilities, have no federal tax liability and therefore are not entitled to tax credits. But under H.R. 1551, the tax credit is made available for not-for-profit entities that can only be transferred to the project's for-profit partners. Furthermore, H.R. 1551 specifies that rural cooperatives may treat tax credit transfers as funds collected for "the sole purpose of meeting losses and expenses" – that is, as a form of debt relief, for which production tax credits were not intended. ***These measures amount to a brand-new, taxpayer-shouldered giveaway for both Southern Company and SCANA Corp.***

Furthermore, the definition of "eligible partners" that can receive the tax credits from the not-for-profit partner(s) is troubling as it "includes any person who designed or constructed the nuclear power plant, participates in the provision of nuclear steam or nuclear fuel to the power plant, or has an ownership interest in the facility." Providing tax credits to reactor suppliers or the uranium mining industry is objectionable and goes beyond the original intent of the law to

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<sup>3</sup> Twelfth Semi-Annual Vogtle Construction Monitoring Report, Docket 29849 before the Georgia Public Service Commission, Southern Alliance for Clean Energy Final Brief, August 7, 2015. Available at <http://www.psc.state.ga.us/factsv2/Document.aspx?documentNumber=159654>

<sup>4</sup> The nuclear production tax credit has a cap of 6000MW. Combined Vogtle and V.C. Summer would amount to 4400MW. With the placed-in-service date requirement removed, additional new nuclear projects placed into service at any point in the future could qualify. This could include already-proposed projects that are even farther behind than Vogtle and V.C. Summer and/or new reactor designs that are not even certified, nor near commercialization.

provide incentives to actual nuclear utilities that were among the first to pursue new nuclear generation.

The rationales provided for eliminating the placed-in-service date for the nuclear production tax credit are irrelevant and have no merit:

**“The cost of H.R. 1551 is minimal.”** The cost of the nuclear production tax credits is at least \$5.2 billion. Due to both eliminating the placed-in-service date and by permitting qualified public entities to transfer credits to an eligible project partner, the latter provision would actually increase the cost of the tax credits by allowing non-profit, tax-exempt owners of reactors to take a large federal tax credit. State and municipal utilities and rural cooperatives are major owners of both the Vogtle and Summer projects: rural cooperatives own 54.3% of the Vogtle 3 and 4 reactors; and Santee Cooper owns 45% of the Summer 2 and 3 reactors. By permitting these tax-exempt entities to transfer tax credits to private sector partners, H.R. 1551 would double the anticipated amount of the tax credits for the Summer and Vogtle projects. The credits are valued at \$18 per megawatt-hour of electricity generated for the first eight years. This would amount to about \$160 million per year for each reactor -- \$1.3 billion each, or \$5.2 billion for all four reactors. Taxpayers stand to avoid a \$5.2 billion expense if none of the reactors come online before the tax credits expire at the end of 2020. By eliminating the placed-in-service date, H.R. 1551 could cost taxpayers billions of dollars for a failed technology.

**“The tax credits are essential to the completion of the Vogtle and Summer projects.”** It is not clear that the tax credits will have any effect on the outcome of the Vogtle and Summer projects at this point. Each of the reactors under construction is now \$5 billion to \$7 billion over budget. Even \$1.3 billion in tax credits is not enough offset such massive cost overruns; and, in any case, the benefits of the production tax credit were assumed when the utilities began building the reactors. If the utilities determine to complete the reactors despite the cost overruns, the value of the tax credits will not be a decisive factor.

**“The tax credits are essential to maintaining U.S. leadership in the global nuclear industry.”** Extending the nuclear production tax credit will do nothing to promote U.S. leadership in nuclear technology or reactor exports. The tax credits themselves will derive to the domestic utilities that will own and operate the Vogtle and Summer reactors, not the manufacturers that design, export, and build reactors. The nuclear divisions of Westinghouse and General Electric are the only two U.S.-based companies actively involved in the global reactor market, but both are now owned by Japanese corporations (Toshiba and Hitachi). As a result of Westinghouse’s bankruptcy, Toshiba has determined not to build any more new reactors, and not to continue supporting the AP1000 reactor design. GE-Hitachi’s prospects are no better. The company has only two reactors in construction globally (both in Japan and long-delayed).

**“A viable commercial nuclear power industry is necessary to support the nation’s defense nuclear complex.”** This would be a hypocritical reason to provide a subsidy to reactors, and could prove dangerous to peace and security domestically and globally. The U.S. is under international treaty obligations to maintain a strict separation of civilian and military applications of nuclear technology. Historically, the U.S. government’s purpose in promoting commercial nuclear power was to encourage the peaceful application of atomic energy, not to advance

nuclear weapons. If the U.S. is perceived as promoting civilian nuclear power as a means of bolstering our nuclear weapons program, then it will undermine our credibility in the non-proliferation arena. It could also encourage enemies to view nuclear power plants as extensions of our military establishment, and hence as legitimate targets in armed conflict.

We strongly oppose this bill and urge you to vote against this undeserved industry bailout. We urge Congress to oppose this provision and instead focus on low- or no-carbon energy choices that can be deployed affordably in the near-term, at low risk, that will lead us to a clean and sustainable future.

Sincerely,

Beyond Nuclear  
Center for Biological Diversity  
Clean Water Action  
Environment America  
Friends of the Earth  
Greenpeace  
League of Conservation Voters  
Natural Resources Defense Council  
Nuclear Information And Resource Service  
Public Citizen  
Sierra Club  
Southern Alliance for Clean Energy  
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