



1401 New York Avenue, NW
Suite 950
Washington, DC 20005-2100

(202) 628-8200

April 25, 2019

Honorable Lisa Murkowski, Chairman
Honorable Joe Manchin, Ranking Member
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Re: S. 903, Nuclear Energy Leadership Act

Dear Senators Murkowski and Manchin:

The Electric Power Supply Association (EPSA) appreciates this opportunity to comment on S. 903, the Nuclear Energy Leadership Act (NELA), in light of the Committee's hearing on the legislation scheduled for Tuesday, April 30, 2019.

EPSA is the leading national trade association representing independent power producers and power marketers. EPSA members are major suppliers of electricity nationally and in the largest federally-regulated regional wholesale power markets. Importantly, EPSA members develop and operate power plants at their own risk on a competitive basis, as Congress and the Federal Energy Regulatory Commission intended. EPSA member assets include natural gas, coal, nuclear, renewables, and emerging technologies such as battery storage and distributed generation.

EPSA understands the Committee's interest and that of the bill's co-sponsors in advanced nuclear technologies. However, as presently drafted, two aspects of S. 903 deserve further consideration and clarification as the bill's language is fashioned.

First, section 2 amends current law by raising the maximum length of federal power purchase agreements from 10 to 40 years. As drafted, this provision is not limited to the "advanced nuclear reactor" technology defined in section 4, much less narrowly drafted to only facilitate the pilot program established by section 3. While some supporters of the bill have said this is to make the bill fuel neutral, the bill's section-by-section summary on the Committee's web site claims "[n]uclear energy is at a disadvantage when competing for federal power purchase agreements (PPA) ...".

While EPSA has contacted the General Services Administration (GSA) to learn more about how the federal government awards PPAs, as of this writing EPSA is not aware that GSA generally purchases electricity by fuel type. Instead, GSA's web site lists over 90 PPAs with local regulated utilities around the country. At a minimum, it would be helpful to explore the basis for the claimed disadvantage and whether it would be good policy on multiple levels for the federal government to broadly procure any specific fuel or technology over a 40-year period given rapid changes in technology and economics. One solution might be to limit section 2 to the pilot program in section 3.

Second, while the focus of the legislation is on “advanced nuclear reactor” technology, section 3 establishes a long-term nuclear power purchase agreement pilot program that as currently drafted could be interpreted more broadly. Specifically, new Section 640 proposed to be added to the Energy Policy Act of 2005 would require that at least one PPA be entered to purchase power from “a commercial nuclear reactor that receives a license from the Nuclear Regulatory Commission after January 1, 2019.”

Thus, as written, the bill could be interpreted to allow any existing nuclear reactor using conventional technology licensed or perhaps merely relicensed after January 1, 2019 to qualify. To be sure, the bill requires “special consideration” be given to broadly worded nuclear technologies, but that neither limits the program to only those technologies nor does it further limit them to only the nuclear reactors defined as “advanced” in section 4.

As the Committee is aware, the broader context in the electricity policy arena in which this bill is being considered is extremely important. EPSC and broad coalitions at the federal and state levels are engaged in spirited debates at the U.S. Department of Energy, the Federal Energy Regulatory Commission, state legislatures, and state regulatory bodies over proposed and actual interventions in wholesale power markets artificially favoring one source of electricity over another. This is no accident.

It is well documented that electricity demand is essentially flat and that more and more newer technologies – including natural gas and renewables – have become more economic to supply the nation’s electricity needs while being reliable and resilient. Those less able to compete in the marketplace have turned to federal and state officials to take from consumers via mandates and subsidies and give to them what they apparently concede they cannot otherwise earn in head to head competition.

Those of us who still actually support the type of competitive markets that Congress and FERC have facilitated for decades must view proposals such as S. 903 in this broader context. While advancing technology is a laudable goal, we respectfully urge the Committee to narrowly tailor the bill’s legislative language to the stated objectives around “advanced nuclear” to avoid even the appearance that the intent is to allow the federal government to use federal PPAs to discriminate against non-nuclear fuels and technologies. If that were to occur, it would be inconsistent with an “all of the above” energy policy we know you have long supported and for which we are grateful.

Thank you for the opportunity to express these concerns, which we think can and should be addressed consistent with these comments.

Sincerely,



John E. Shelk
President & CEO
Electric Power Supply Association