



**Written submission from the
Nuclear Transparency Project**

**Mémoire du
Projet de transparence nucléaire**

In the Matter of

À l'égard de

BWXT Nuclear Energy Canada Inc.

BWXT Nuclear Energy Canada Inc.

Revision of Financial Guarantee for BWXT
Nuclear Energy Canada Inc.

Révision à la garantie financière de
BWXT Nuclear Energy Canada Inc.

Public Hearing - Hearing in writing based
on written submissions

Audience publique - Audience fondée sur
des mémoires

February 2024

Février 2024



nuclear
transparency
project

Website: www.nucleartransparency.ca
Email: info@nucleartransparency.ca

Submitted via email

February 5, 2024

To Members of the Canadian Nuclear Safety Commission,

Re: Commission consideration of BWXT NEC's revised preliminary decommissioning plans and financial guarantees for its Toronto and Peterborough facilities

We would like to begin by thanking the Commission for this opportunity to provide written submissions for this matter. As participant funding was not offered for this proceeding, our organization faced capacity constraints that prevented us from being able to file comments in this matter until now.

The Nuclear Transparency Project (NTP) is a Canadian-registered not-for-profit organization dedicated to supporting open, informed, and equitable public discourse on nuclear technologies. NTP advocates for robust public access to data and other types of information and helps to produce accessible analysis of publicly available information, all with a view to supporting greater transparency in the Canadian nuclear sector. NTP is comprised of a multi-disciplinary group of experts who work to examine the economic, ecological, and social facets and impacts of Canadian nuclear energy production. We are committed to interdisciplinary, cross-sectoral, and equitable collaborations and dialogue between regulators, industry, Indigenous nations and communities, civil society, members of host and potential host communities, and academics from a variety of disciplines.

Our interest in this matter primarily concerns the transparency-related aspects of the current confidentiality application process. We decided to comment upon hearing that BWXT Nuclear Energy Canada (BWXT NEC) will not be required by the Commission to disclose a copy (redacted or otherwise) of its revised preliminary decommissioning plans or financial guarantees for its uranium fuel pelleting and fuel bundling operations, in Toronto and Peterborough respectively. In this way, these submissions are related to our comments from December 18, 2023 concerning Cameco Corporation's revised preliminary decommissioning plan and financial guarantee for the Port Hope Conversion Facility and their application to have those original documents kept confidential.

Before continuing to address these transparency issues, we first want to note that the new Canadian Nuclear Safety Commission (CNSC) website has posed some additional constraints. We understand the website is in the process of being modernized. However, in this process, most hyperlinks have been broken – including the one for the public record for this matter provided in the Notice of Hearing. While we were able to locate the notice on the website, we could not locate any hearing documents or other records. This has meant we are unable to comment on BWXT NEC’s application for confidentiality, any subsequent Commissioner decision on confidentiality, or any comments from other intervenors in this matter to date. We hope the issues with hyperlinks and access to hearing documents is resolved soon. As these submissions show, the current website transition is adversely impacting public participation in nuclear regulatory processes.

With regard to BWXT NEC’s materials posted to its own website however, we have had the chance to review the four-page summaries. We also reached out to BWXT NEC by email to inquire about its updated decommissioning plans and financial guarantees. Through their response, we learned the company applied to have its plans confidential due to “security implications” and “commercially confidential information”. We are concerned about the vagueness of these grounds.

Through our emails with BWXT NEC, we also learned that the company made some additions to its four-page summaries in response to public feedback, and that it has made it easier for the public to access these summaries via a panel on the website home page. We appreciate BWXT’s responsiveness in this way, however, without being able to access other public comments, we are unable to assess the adequacy of these measures or generally comment on this matter further.

Further, several queries remain unaddressed. In particular, we asked how long the confidential submissions were in order to be able to compare their page count to the summaries provided. We sought this information in order to get a sense of how comprehensive the summaries are. We also asked about BWXT NEC’s approach to redactions and whether it considers redacting original submissions, rather than producing summaries. Despite today’s hearing deadline, we will continue to pursue this issue with the company in order to gain a greater understanding of their approach.

Finally, through this email exchange, we have learned that this confidentiality process is a new one for the CNSC. As such, we offer the following comments on this process in order to inform future iterations. In nuclear regulatory matters, NTP advocates for a default position of openness and transparency. In exceptional matters, confidentiality might need to be protected, but these instances should be defined as narrowly and specifically as possible with clear rationales communicated to the public. Generally, redacted versions of original documents are more transparent than shorter summaries of these documents.

Based on the available public record for the matter, it appears the default position was to protect confidentiality, with members of the public being required to prove a need for

disclosure. Should this approach be permitted by the Commission Member panel, we have serious concerns about the precedent this might set.

All of this is respectfully submitted and we thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Pippa Feinstein". The signature is fluid and cursive, with a large initial "P" and "F".

Pippa Feinstein, JD, LLM
Founder and Coordinator