

**UNITED STATES OF AMERICA**  
**NUCLEAR REGULATORY COMMISSION**

**Title:           BRIEFING BY STAFF ON INDUSTRY**  
**RESTRUCTURING AND DEREGULATION -**  
**PUBLIC MEETING**

**Location:       Rockville, Maryland**

**Date:           Friday, January 5, 1996**

**Pages:          1 - 36**

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1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

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4 BRIEFING BY STAFF ON INDUSTRY  
5 RESTRUCTURING AND DEREGULATION

6 \*\*\*

7 PUBLIC MEETING

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9  
10 Nuclear Regulatory Commission  
11 Commissioners Conference Room  
12 One White Flint North  
13 11555 Rockville Pike  
14 Rockville, Maryland

15  
16 Friday, January 5, 1996  
17

18 The Commission met in open session, pursuant to  
19 notice, at 10:05 a.m., the Honorable SHIRLEY A. JACKSON,  
20 Chairman of the Commission, presiding.

21 COMMISSIONERS PRESENT:

22 SHIRLEY A. JACKSON, Chairman of the Commission  
23 KENNETH C. ROGERS, Member of the Commission  
24  
25

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1 STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

2 J. HOYLE, SECY

3 K. CRY, OGC

4 J. TAYLOR, EDO

5 W. RUSSELL, NRR

6 R. WOOD, NRR

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## P R O C E E D I N G S

[10:00 a.m.]

CHAIRMAN JACKSON: Good morning, ladies and gentlemen. This morning the Commission will be briefed by the NRC staff on its views on industry restructuring and deregulation.

It is imperative that the NRC be knowledgeable of the electric utility industry regulatory initiatives and other changes in the challenges they present. The electric utility industry is undergoing as you know substantial restructuring that is changing utility business practices.

The NRC must determine whether our current regulatory framework is fully adequate to assure continued safe nuclear operations and decommissioning or whether changes including rulemaking are necessary as a result of this changing business environment.

The Commission requested this briefing as a follow-on to the earlier meeting we had in December and requested the Commission be informed of staff proposed actions and response to the changing economic and regulatory climate. Commissioner Rogers, do you have an opening comments?

COMMISSIONER ROGERS: Not at this time, thank you.

CHAIRMAN JACKSON: Mr. Taylor, you may proceed.

MR. TAYLOR: Good morning. With me at the table

1 are Bill Russell and Bob Wood from the Office of Nuclear  
2 Reactor Regulation. The presentation will be given by Bob  
3 Wood.

4 MR. WOOD: Thank you, Chairman Jackson and  
5 Commissioner Rogers. May have the first slide, please?

6 [SLIDE.]

7 MR. WOOD: Thank you. What I would like to do  
8 today is trace through first of all the background of the  
9 impetus for change and the move towards fuller competition  
10 and then I would like to talk briefly about the issues  
11 facing the NRC, particularly the nexus between the financial  
12 changes that are coming out of the deregulatory movement and  
13 nuclear plant safety, and then address current staff  
14 practice, trace through the process that we go through on  
15 the 50.80 transfer of control reviews, talk about the  
16 financial qualifications reviews both for operations and  
17 decommissioning, talk about the anti-trust review  
18 responsibilities under the Atomic Energy Act.

19 Then I will go into a brief history of the three  
20 power reactor licensees that have gone into bankruptcy and  
21 then finally I will talk about near, mid and long-term  
22 actions that the staff believes we need to take and these  
23 would reflect both our thinking independent of other input  
24 but we would also bring out our reflections on the December  
25 14th panel observations and recommendations.

1 Second slide, please?

2 [SLIDE.]

3 MR. WOOD: With respect to the background, the  
4 Public Utility Regulatory Policies Act of 1978 or PURPA  
5 really was the initial impetus for the early start of the  
6 electric utility regulation movement. At that time  
7 independent power producers were formed as a way of  
8 increasing energy supply during the 1970's when the energy  
9 crisis was still very much in everyone's minds.

10 The Energy Policy Act of 1992 furthered this  
11 along. There was a requirement that FERC act at the  
12 wholesale level to provide non-discriminatory open access  
13 transmission. FERC issued their MEGA-NOPR, Notice of  
14 Proposed Rulemaking and Chair Moeller of FERC addressed this  
15 in the December 14th panel. According to her, FERC  
16 regulates about ten to 20 percent of NRC licensees.

17 The main impetus, however, from the deregulation  
18 movement I think it is primarily because of consumer  
19 perception that electricity rates are too high is at the  
20 state PUC level. California, in particular, has taken the  
21 initiative and recently came to a decision on phasing in  
22 retail wheeling from 1998 to 2003.

23 They also addressed the issue of stranded  
24 investment costs and they will allow that recovery of  
25 stranded investments up through 2005. They had a provision

1 in their decision to disaggregate the electric utilities in  
2 California so that there would be a 50-percent spin-off of  
3 generation assets.

4 CHAIRMAN JACKSON: This initiative does not  
5 specifically deal with decommissioning funding?

6 MR. WOOD: That is correct. We haven't seen all  
7 the details yet but from the public releases we have seen,  
8 it didn't mention decommissioning. Of course, as more  
9 details come out we will stay on top of it. May I have the  
10 third slide, please?

11 [SLIDE.]

12 MR. WOOD: With respect to the issues facing the  
13 NRC we certainly want to be concerned about the effect that  
14 high cost or stranded assets resulting from increased  
15 competition will have on the safe operation and  
16 decommissioning, particularly will the owners of these  
17 higher-cost facilities become less willing or able to  
18 allocate adequate funds to their nuclear plants.

19 As you heard in the December 14th briefing, there  
20 is a difference between higher costs that arise out of  
21 embedded construction costs which may be able to be taken  
22 care of over accelerated depreciation and higher costs that  
23 arise out of operating costs which is probably a more  
24 serious problem.

25 Another issue is will deregulation and



1 restructuring result in new types of owners and operators.  
2 We have already seen in the NRC corporate-wide nuclear  
3 service companies like the Entergy case primarily but there  
4 have been a few others. There may be hybrid owner/operators  
5 where independent or affiliated power producers begin to  
6 apply for NRC licenses and then finally there is the issue  
7 of foreign ownership. We haven't seen that yet. It is  
8 prohibited under our regulations in the Atomic Energy Act  
9 but we will have to address that if it comes up.

10 Will our regulations and policies apply to these  
11 new entities and if not, how should we change or revise our  
12 policies and requirements to address these new entities? We  
13 would have to address the issue will owners, new owners, be  
14 financially qualified under 50.33 requirements and will they  
15 meet the section 105(c) test of the Atomic Energy Act with  
16 respect to creating or maintaining inconsistencies with the  
17 anti-trust laws and finally concerning 50.75 and 50.82 where  
18 we have to re-visit our decommissioning funding assurance  
19 regulations. The fourth slide, please.

20 [SLIDE.]

21 MR. WOOD: I will briefly go into current staff  
22 practice on this slide and give an overview and there is a  
23 new slide coming up that I will address after this fourth  
24 slide on the 50.80 process.

25 CHAIRMAN JACKSON: We have copies, thank you.

1 MR. WOOD: Good, you have copies. Over the past  
2 two years the NRC has conducted about 15 licensing reviews  
3 under 50.80 involving mergers, restructurings and direct  
4 sales of reactors.

5 These are both for financial qualifications and  
6 for potential anti-trust changes. They typically involve  
7 license amendments and orders. Since 1984, the reviews have  
8 pretty much been pro forma since in 1984 the financial  
9 qualifications review at the OL stage was eliminated from  
10 our regulations.

11 Of the three general types of reorganizations,  
12 mergers seem to be the least problematic. We haven't found  
13 any mergers that would likely result in any sort of  
14 diminution of assets and we don't expect that that will  
15 happen in the future.

16 For recent restructurings involving holding  
17 companies, our concern of course is that once a holding  
18 company is formed, the parent might bleed off assets until  
19 only the nuclear plant is left.

20 Recently we have required either that the holding  
21 company be added to the license or the licensee has in some  
22 way committed to inform the NRC before significant assets  
23 are transferred from the licensee subsidiary to a parent or  
24 sibling or whatever. However, the licensees are not legally  
25 bound to tell the NRC of such transfers and I will get into

1 some possible fixes to that later in the presentation.

2 CHAIRMAN JACKSON: Before you do that, how are the  
3 commitments documented currently?

4 MR. WOOD: Basically it is just a letter in  
5 writing. We have gone out and said the licensee will agree  
6 to inform us and they have come back with a letter saying,  
7 "Yes, they will do that." It is not a license condition.

8 CHAIRMAN JACKSON: But you are going to talk more  
9 about this you say?

10 MR. WOOD: Yes.

11 CHAIRMAN JACKSON: All right.

12 MR. WOOD: For sales of partial or full interest  
13 in power reactors, we have evaluated the financial  
14 qualifications of each buyer to determine that it will have  
15 adequate resources to operate and decommission and here as  
16 well we have done the anti-trust reviews. Now I would like  
17 the backup slide, please?

18 [SLIDE.]

19 MR. WOOD: With respect to the 50.80 transfer  
20 process, NRC must approve the transfers of licenses and  
21 rights thereunder whether they are made voluntarily or  
22 involuntarily, directly or indirectly. An application for  
23 transfer must include the financial qualifications as well  
24 as any other technical information that is germane to the  
25 transfer.

1           The whole purpose of the 50.80 review was to  
2 determine which entity, the new entity or the parent entity  
3 or whatever, has actual or potential control over plant  
4 operations.

5           Staff evaluates the financial qualifications and  
6 anti-trust transfers by determining whether the new entity  
7 will remain an electric utility and that is defined in 50.2  
8 of our regulations.

9           CHAIRMAN JACKSON: Let me stop you for a minute.  
10 The point though here is that when you mentioned in 1984  
11 that our rules eliminated the financial qualification review  
12 at the operating license stage, that was for licensees that  
13 were defined as electric utilities.

14          MR. WOOD: That is correct.

15          CHAIRMAN JACKSON: All right. That is an  
16 important point in this discussion.

17          MR. WOOD: That is a very important point, yes.  
18 We also review the recent financial performance of the  
19 transferee or if the transferee is a new entity such as an  
20 operating company, we will evaluate the participation  
21 agreement or other agreement it has with its owner or other  
22 responsible party.

23          On the anti-trust side, most license conditions  
24 relating to anti-trust arose out of construction permit  
25 reviews that were done several years ago but we do get 2.206

1 petitions requesting reinterpretations of those or  
2 challenges to behavior of a primary licensee. So that is an  
3 ongoing process as well.

4 We found that 50.80 is ambiguous on a few areas.  
5 For example, whether the formation of holding companies  
6 above a license is a direct or indirect transfer of control  
7 and we have to be very careful to define carefully which I  
8 will get into later on that there doesn't become a situation  
9 of stranded responsibilities as Commissioner Rogers pointed  
10 out in December.

11 Obviously, we don't want to be interested in stock  
12 transfers on a small level or a de minimis level but if they  
13 are major bulk sales of stock, we may want to re-visit at  
14 what point we want to get involved in that. Then finally,  
15 transfers of other assets away from an existing licensee, we  
16 don't want to be in the situation where a licensee is  
17 sitting there and then assets are transferred away without  
18 our knowing it to the point where only the reactor is left  
19 without any other asset base.

20 Slide number five, please?

21 [SLIDE.]

22 MR. WOOD: The next two slides have a brief  
23 history of the three reactors that have experienced, power  
24 reactor licensees, that have experienced bankruptcy. Each  
25 of the three has sought bankruptcy protection under Chapter

1 11 which is a voluntary reorganization. They have not tried  
2 to liquidate under Chapter 7 of the Bankruptcy Code.

3 The most famous one was, of course, Public Service  
4 Company of New Hampshire that declared bankruptcy in 1988  
5 because of the problems associated with getting Seabrook  
6 licensed. They emerged from bankruptcy in May 1991 by  
7 merging with Northeast Utilities.

8 El Paso Electric Company sought bankruptcy  
9 protection in 1992, primarily as a result of excess power  
10 reserves and inadequate rate relief to cover the costs of  
11 power. They are a small, 15-percent owner of the Palo Verde  
12 facility. They are still in bankruptcy. At one point there  
13 was talk of a merger with Central and Southwest Corporation  
14 but that didn't come to fruition. Slide number six, please.

15 [SLIDE.]

16 MR. WOOD: With respect to both Public Service of  
17 New Hampshire and El Paso while they were in bankruptcy they  
18 paid all their operating and decommissioning costs. It was  
19 really the bondholders and stockholders that took the  
20 financial hit and not safety expenditures.

21 The third case is Cajun. However, because of  
22 Cajun's ongoing actions before our licensing board I don't  
23 want to mention any more because of ex parte considerations  
24 that you may become involved with.

25 CHAIRMAN JACKSON: Before you go further, the

1 staff has not noted any operational impacts in these  
2 particular cases?

3 MR. RUSSELL: No. In fact, I was at River Bend  
4 and had discussions with the senior management of Entergy  
5 and the senior management at Gulf States Utilities, the 70-  
6 percent owners, and they assured me in that public meeting  
7 that there would be sufficient funds to operate and that  
8 they are covering the 30-percent of the operating costs  
9 which are not being provided at this time by Cajun.

10 Based upon the actual performance of the facility  
11 which has improved substantially since Entergy has been  
12 involved with oversight of operations, we have actually seen  
13 material condition improve and physical performance, actual  
14 performance of the facility improve and they are continuing  
15 to invest resources. For example, they are constructing  
16 office facilities, eliminating trailers and continuing to  
17 follow the financial plan that they had laid out to improve  
18 performance of the plant.

19 So we do not see any signs from a safety  
20 standpoint of impact of the financial debate that is going  
21 back and forth between the parties but we are involved in it  
22 and because it is in litigation we really can't discuss  
23 beyond that.

24 MR. WOOD: May I have slide seven, please?

25 [SLIDE.]

1 MR. WOOD: We feel that there are several actions  
2 we can take in various timeframes to help solidify this  
3 process and correct some of the or clarify some of the  
4 ambiguities in the process. While we are doing that, I  
5 think we should continue to perform the 50.80 reviews of all  
6 power reactor licensee transfers of control for both  
7 financial qualifications and anti-trust.

8 One thing we have done, Bill Russell signed a memo  
9 on December 28th that elevated the signature authority for  
10 approving these 50.80 transfers up to his level, the office  
11 director level. One thing we would like to tell you, of  
12 course, is that if we do get any unusual or atypical  
13 organizational arrangements, we will be sure to let the  
14 Commission know what these are and ask for your review or  
15 approval in those situations.

16 CHAIRMAN JACKSON: And that has been clearly  
17 codified in your procedures in terms of this notification of  
18 the Commission?

19 MR. RUSSELL: We have taken the first step with  
20 respect to changing our internal procedures as it relates to  
21 the authority, signature authority for granting a change in  
22 ownership or reorganization.

23 We will be revising our internal procedures as we  
24 are going to be discussing later to clearly define what the  
25 process is. We expect that that is going to take some time.



1 We have not updated the Standard Review Plan in this area  
2 for a number of years.

3 That needs to be done and within that process, we  
4 will clearly define what will be the approach to a review  
5 where it qualifies as an electric utility and where we run  
6 into new organizational approaches or new issues, we would  
7 propose to follow something similar to what we did in the  
8 Advanced Reactor reviews, that is, we would bring the new  
9 issues or policy issues to the Commission and seek  
10 consultation with the Commission and we would codify that  
11 probably within five to six months as we do the review plan  
12 update.

13 So the short term action is basically a commitment  
14 from me to you that we will do this in the interim until we  
15 get the procedures written down or revised and that is why  
16 we elevated this to my level of authority within the Office.

17 CHAIRMAN JACKSON: So you are the one we have the  
18 chains on at the moment?

19 [Laughter.]

20 MR. RUSSELL: That's correct.

21 MR. TAYLOR: That is exactly right.

22 MR. WOOD: As Bill mentioned we will be developing  
23 an action plan for those types of activities and the other  
24 follow-on activities that I will be discussing in the next  
25 couple of slides. We expect to have that action plan by the

1 end of January.

2 We also believe that we need to develop guidance  
3 on NRC financial qualifications and anti-trust processes to  
4 ensure that continued owner/operator responsibility for safe  
5 operation and decommissioning and we will be addressing as  
6 part of that the uncertainty of estimates as they may be  
7 affected by low-level waste costs or other factors in  
8 decommissioning.

9 Slide eight, please.

10 [SLIDE.]

11 MR. WOOD: More on the middle term, we want to  
12 evaluate the reporting requirements associated with 50.80  
13 and also 50.81. If I could digress a second, the 50.81  
14 process is really to look at creditor relationships and we  
15 have never seen any sort of major problem with that. We  
16 have gotten sale leaseback requests but typically these are  
17 not problematical so we haven't had any major activity in  
18 that but we still feel that we need to know about them so we  
19 want to re-evaluate the information we get under that type  
20 of review as well.

21 We want to look at structural changes to determine  
22 the need for either license conditions or a generic letter  
23 to ensure that the NRC is informed of all these types of  
24 changes.

25 CHAIRMAN JACKSON: Let me stop you for a second.

1 From a financial structure point of view in terms of  
2 decommissioning funding, if you are looking at  
3 owner/creditor and other financial structures, is  
4 decommissioning funding subordinated relative to some other  
5 kinds of obligations, financial obligations?

6 MR. WOOD: Well, because they are not bonds or  
7 stock in the sense of a utility's capital structure it is  
8 considered a form of operating expense. So it would come  
9 out that way.

10 CHAIRMAN JACKSON: All right.

11 MR. RUSSELL: There have been some cases that have  
12 come up though where utilities have withdrawn funds from  
13 decommissioning funds during the course of a year and then  
14 put funds back in to re-establish that so there has been  
15 borrowing or movement between decommissioning funds within a  
16 utility.

17 We believe that these are the types of things that  
18 we need to be informed of and so we are really looking at  
19 reporting requirements. When we talk mid-term actions, we  
20 may be looking at something like a generic letter that would  
21 go out to request information from licensees to inform us  
22 and we may need to look at this in the longer term through a  
23 rulemaking activity.

24 But we want to make sure that we have the  
25 information so that we can understand where there are any

1 significant transfers of assets because as we indicated  
2 earlier we have only gotten letter commitments and only in a  
3 few cases and that there is no binding requirement that we  
4 be informed if assets other than the physical plant are  
5 transferred which relates to the ability of the company to  
6 raise funds to pay for future operations and  
7 decommissioning.

8 CHAIRMAN JACKSON: So basically what you are  
9 telling me is that in terms of what you will demand in terms  
10 of information will include information involving the  
11 decommissioning funds.

12 MR. RUSSELL: Yes, both transfers of assets which  
13 could affect the ability to have sufficient funds to operate  
14 in the future as well as anything which would impact the  
15 ability to put funds into the decommissioning area.

16 CHAIRMAN JACKSON: I think I preempted your next  
17 bullet point.

18 MR. WOOD: Yes, I think Bill has covered that so I  
19 will just skip on to the third bullet. We do believe that  
20 we need to consolidate and verify our information base both  
21 with respect to ownership of power plants and our anti-  
22 trust responsibilities so we will update the prior NUREGS on  
23 that.

24 One thing I should point out with respect to anti-  
25 trust, the staff has developed a generic anti-trust license

1 condition for new non-owner operators that precludes an in-  
2 depth anti-trust review if the new operator is separated or  
3 divorced from the marketing or brokering of power or energy  
4 from the facility.

5 One thing we also believe we should consider doing  
6 is exploring a mechanism to develop an on-going staff level  
7 contact with FERC, the SEC and the appropriate NARUC staff  
8 subcommittees.

9 For example, we might consider requesting observer  
10 status on the appropriate NARUC staff subcommittees, the  
11 subcommittee on electricity, for example, and this would be  
12 in addition to Commissioner Rogers' contacts at the  
13 Commission level. We would also look at possible  
14 implementation of a Memorandum of Understanding with both  
15 FERC and the SEC on the division of responsibilities in that  
16 area.

17 CHAIRMAN JACKSON: All right.

18 COMMISSIONER ROGERS: I think that is a very good  
19 thing to do. It may be difficult to carry out. Some years  
20 ago we tried to establish something like that with NARUC and  
21 it just didn't seem to be, there just didn't seem to be  
22 points of contact that one could identify and lock-in to.  
23 One problem with NARUC is that there is quite a turnover of  
24 Commissioners and their staffs go with them. So that the  
25 staff, these committee staff members, are basically staff

1 members of NARUC Commissioners so when the Commissioner  
2 goes, the staff disappears.

3 CHAIRMAN JACKSON: So goes the staff.

4 COMMISSIONER ROGERS: That has made it rather  
5 difficult for long term arrangements to develop but I think  
6 it is important to try to do this and I would suggest that  
7 in exploring this that you might look at, there are several  
8 university centers that have programs for new FERC  
9 Commissioners and staff members. I think Michigan State has  
10 one.

11 MR. WOOD: I think they are the famous one.

12 COMMISSIONER ROGERS: But I think there is another  
13 one as well. I know Harvard has some kind of a program. It  
14 might be that just exploring how to do this might be  
15 facilitated a little bit by some discussions with those  
16 groups because they have continuity, more continuity than  
17 NARUC itself has had.

18 CHAIRMAN JACKSON: Under the assumption though  
19 that FERC and SEC do have continuity.

20 [Laughter.]

21 COMMISSIONER ROGERS: Yes. I just didn't know how  
22 to deal with that.

23 [Laughter.]

24 CHAIRMAN JACKSON: I think the MOU route is an  
25 appropriate one. You indicated consideration. I would urge

1 you strongly.

2 MR. WOOD: All right.

3 MR. TAYLOR: That is not one that we have broached  
4 at this point but it is one that we would like to pursue  
5 from the staff level.

6 MR. RUSSELL: Particularly in the context of  
7 identifying actions that may be being considered either as  
8 it relates to transfers of assets or ownership or things  
9 like that, that those kinds of issues generally would come  
10 up first with either FERC or with SEC and we typically get  
11 notification late in the process and so this type of  
12 information exchange would be useful.

13 CHAIRMAN JACKSON: The SEC has definite reporting  
14 requirements.

15 MR. RUSSELL: Yes.

16 CHAIRMAN JACKSON: That's good.

17 MR. RUSSELL: And they are also quite an open  
18 agency so just staff contacts to know where to look within  
19 their files that are publicly available so that we can stay  
20 cognizant of what is going on.

21 CHAIRMAN JACKSON: Yes.

22 MR. WOOD: Slide nine, please.

23 [SLIDE.]

24 MR. WOOD: We believe that there are some areas  
25 that need guidance. We have talked about this some already

1 but I will reiterate some of the points now. We believe we  
2 really need to clearly delineate the NRC position on  
3 different ownership arrangements particularly new ones that  
4 arise, holding companies specifically but also  
5 operating/generating service companies, independent power  
6 producers, exempt wholesale generators and other hybrid  
7 companies or entities that may come along.

8 We want to make sure that everyone understands  
9 that the NRC will take any measures available under its  
10 licensing process to prevent reduction of assets necessary  
11 for safe operation and decommissioning.

12 We believe our initial licensing and  
13 decommissioning rules were predicated on the assumption that  
14 a minimum level of assets would be available and that power  
15 reactor licensees would either set their own rates or would  
16 have recourse to rate payers through their economic  
17 regulators. Restructurings that significantly reduce assets  
18 would be a violation of that assumption.

19 CHAIRMAN JACKSON: Since you raised that, do you  
20 feel that it is conceivable that there could be a situation  
21 where it would be prudent to invoke federal supremacy to  
22 prevent this?

23 MR. WOOD: Certainly in an extreme situation if we  
24 saw a direct impact on health and safety or potential impact  
25 on health and safety, we certainly would, I would think and



1 I would defer to General Counsel on that, but I would think  
2 that we would have the authority under the Atomic Energy Act  
3 to do that.

4 MR. RUSSELL: I would clarify that if we find that  
5 there are not sufficient resources to operate, we certainly  
6 have the authority to order them to shut down.

7 CHAIRMAN JACKSON: Right.

8 MR. RUSSELL: Then the question becomes one as to  
9 whether there are sufficient funds available at that time to  
10 decommission and what is the ability and responsibility for  
11 decommissioning activities.

12 So I am less concerned about our oversight  
13 activities as they relate to safety of operations and the  
14 changes we are making in the inspection programs and other  
15 things to focus on operations because we do have the  
16 authority to shut down if we find that there are not  
17 sufficient funds or they are cutting corners in the  
18 operating area.

19 The area that is much more of concern is  
20 responsibility for decommissioning and whether sufficient  
21 funds for decommissioning are available.

22 CHAIRMAN JACKSON: That is why I asked the  
23 questions about decommissioning funding.

24 MR. RUSSELL: Those are the areas that we are  
25 going to continue to focus on.

1 CHAIRMAN JACKSON: Thank you.

2 MR. WOOD: Slide ten, please.

3 [SLIDE.]

4 MR. WOOD: With respect to the longer term staff  
5 actions we believe are necessary I think we will probably  
6 need to strengthen 50.80 through rulemaking to make sure  
7 that it applies to all changes in licensees and owners that  
8 reduce assets or recourse to rate regulation or rate  
9 recovery.

10 We believe we should continue to assist the Office  
11 of Research in developing an Advance Notice of Proposed  
12 Rulemaking on enhanced decommissioning funding assurance for  
13 licensees that lose that rate regulatory oversight. This  
14 rulemaking is separate from the decommissioning cost  
15 rulemaking that you addressed in your December 20th  
16 memorandum, Chairman Jackson.

17 Depending on the staff analysis of the responses  
18 to the ANPR, we would of course then develop a proposed  
19 rule. At this point we see it following the general outline  
20 that was provided in SECY-95-223 on September 1st which  
21 would tighten the definition of "electric utility" and also  
22 require periodic reporting on the status of decommissioning  
23 funds.

24 We would look at some additional assurance  
25 mechanisms that we outlined in that SECY paper,

1     certifications by ratemaking authorities, for example,  
2     parent or self guarantees accompanied by appropriate  
3     financial tests and then although the December 14th panel  
4     felt that accelerated decommissioning funding was not a good  
5     way to go and might be counterproductive, we feel that it  
6     still may under certain circumstances be appropriate; for  
7     example, in the California case, where they are allowing  
8     accelerated depreciation of the plant if there is some way  
9     of piggy-backing on decommissioning funding to that, it  
10    might be appropriate but we would have to look into that in  
11    more detail.

12                 Concurrent with these rulemakings, we would  
13    develop a standard review plan to provide further detail  
14    with respect to NRC's expectations regarding assurance of  
15    funds for safe operation and decommissioning as well as  
16    anti-trust.

17                 CHAIRMAN JACKSON:  What is your time line for  
18    that?

19                 MR. WOOD:  The standard review plan is probably  
20    going to be in a few months, like May or June or so.

21                 CHAIRMAN JACKSON:  Six month timeframe.

22                 MR. WOOD:  Yes, a six month timeframe.

23                 MR. RUSSELL:  What we are looking at is  
24    essentially putting together a standard review plan that  
25    would address the financial and anti-trust areas, probably

1 issue it for public comment since it is a changing area to  
2 obtain comments on it and then finalize it.

3 What we are looking at doing at least in the short  
4 term is codifying what has been our past practice, what our  
5 current regulations require and clearly to the extent that  
6 we go into rulemaking and add new requirements, we would  
7 also want to make the appropriate changes to the standard  
8 review plan at that time.

9 So what we are looking at doing is first getting a  
10 base line standard review plan which would codify the  
11 processes and we hope to have a draft that would be ready to  
12 go out for comment early in calendar year 1996, probably  
13 spring timeframe to late spring.

14 We need to look at though the total resources  
15 because there are a number of things going on. We have  
16 cases in litigation and we do have limited resources. So I  
17 have to develop a plan that is resource loaded so that we  
18 have some understanding as to what the schedules will be and  
19 that is why I am qualifying the schedules.

20 Our goal is to try to have something by April.  
21 Whether we can meet that or not is a function of other work  
22 load demands.

23 COMMISSIONER ROGERS: Just on this slide, it  
24 wasn't entirely clear to me as to how many distinct rules we  
25 are talking about here and I wonder if you could give some

1 thought to be a little more precise about exactly how many  
2 different rules we are talking about and why we want three  
3 instead of two or all together in one. I don't know.

4 I am not saying what it ought to be but I am just  
5 saying that I think that some thought should be given to the  
6 general structure of the rulemaking here in terms of  
7 precisely what each rule is to accomplish, whether they  
8 should be separated, whether they should be bundled together  
9 or not in some way and then the time tables.

10 MR. TAYLOR: It got started at different times.

11 MR. RUSSELL: Some of it is in 50.33, some of it  
12 is in 50.80, some of it is in 50.81, some of it is in  
13 Appendix L.

14 CHAIRMAN JACKSON: Have you done a systematic  
15 review of all of our existing regulations?

16 MR. RUSSELL: That will be one of the activities  
17 that we are going to look at in the action plan to identify  
18 where there may be other ambiguities or where the current  
19 rules may not be sufficient to accommodate the changing  
20 structures that we are already starting to see.

21 CHAIRMAN JACKSON: Right. I think Commissioner  
22 Rogers has a good point in terms of a lot of separate rules  
23 but in addition if you are doing it, you might as well look  
24 at all of the rules and see where there are inconsistencies  
25 or gaps and whether things can be collapsed.

1 MR. RUSSELL: I did look back to see what the most  
2 recent amendments were to some of these rules and these were  
3 back in the 1970's and so we have not made a lot of changes  
4 to the rules.

5 So basically as Bob said the assumption or the  
6 premise was that they were going to be financially regulated  
7 by public utility commissions or have their own ratemaking  
8 authority if they were governmental type activities. That  
9 presumption is changing.

10 So we have to look at all of the places where that  
11 could be impacted and look at these new structures to see  
12 how they would be accommodated through our rules.

13 CHAIRMAN JACKSON: Right because in the end you  
14 want to be sure that we end up with a consistent regulatory  
15 framework.

16 MR. WOOD: That's right.

17 MR. RUSSELL: Yes, absolutely.

18 CHAIRMAN JACKSON: And that you don't have one  
19 rule that conflicts with another, et cetera, or overlaps too  
20 much.

21 MR. WOOD: Yes.

22 MR. RUSSELL: Right.

23 MR. WOOD: Slide 11, please.

24 [SLIDE.]

25 MR. WOOD: The next two pages have our general

1 conclusions on this discussion. We certainly don't yet know  
2 the extent of changes occurring as a result of deregulation  
3 of the electric utility industry but we feel that it is  
4 inevitable.

5 We need to ensure safe operations and  
6 decommissioning of its licensed power reactors during the  
7 deregulatory process as well as after the changes do occur  
8 and we recognize, of course, that in some cases our  
9 interests and mandate may diverge from the rate regulators,  
10 FERC and the PUCs, and there may be some cases of friction  
11 in that situation.

12 We must be able to identify all owners and  
13 operators of each power reactor facility and the asset base  
14 and recourse to rate recovery that each has.

15 [SLIDE.]

16 MR. WOOD: We mentioned the actions that we intend  
17 to take in the short and mid term on strengthening both the  
18 financial qualifications and anti-trust review processes.  
19 We also believe that we should continue rulemaking on  
20 funding assurance for, and clarification of, non-utility  
21 power reactor licensees and obviously we would develop the  
22 associated standard review plans and other guidance either  
23 prior to that or concurrent with that.

24 We don't believe at this time that a large-scale  
25 overhaul of existing regulations is needed.

1 CHAIRMAN JACKSON: Subject to a review.

2 MR. WOOD: Subject to a review, right. One thing  
3 we did hear in the December 14th panel discussion that  
4 confirmed our understanding that the process is going to be  
5 a longer term process that will occur over ten years or so,  
6 so we do have a little bit of breathing room, I think, in  
7 there and finally as we mentioned we do plan to develop a  
8 plan of action and milestones for your consideration and for  
9 public comment as well and that concludes my briefing.

10 MR. RUSSELL: I would characterize that there is  
11 one other issue that I feel is fairly significant and that  
12 is we need to know in advance of changes occurring so that  
13 we have the opportunity to take the change under  
14 consideration and make a determination as to whether it does  
15 or does not affect control.

16 This is one that we have started doing as you  
17 heard in the meeting with commitments, letters on the  
18 docket. We think that this is something that we need to be  
19 periodically informed of and so clearly requiring licensees  
20 to inform us in advance of significant changes in assets or  
21 to inform us of contemplated changes in ownership or  
22 restructuring such that we can anticipate that, it is  
23 important not only from the standpoint of conducting the  
24 review but also to plan for resources, availability of staff  
25 resources, so that we not unnecessarily delaying these



1 activities, et cetera.

2 This is an area of early knowledge of what is  
3 happening even though we may be handling it case-by-case in  
4 the interim that is quite important. So we are seriously  
5 looking at something along the lines of a generic letter  
6 each year similar to what we do in operator licensing and  
7 other areas so that we can plan our resources and be  
8 informed in advance of these things occurring so that we are  
9 not surprised.

10 CHAIRMAN JACKSON: What is the status of  
11 development of financial health indicators that might be  
12 used to assess the licensee's financial condition?

13 MR. WOOD: Research has a contractor that has been  
14 very helpful in doing that for materials licensees and I  
15 think we are certainly going to look at their availability  
16 in terms of helping us on the reactor side as well.

17 We have done some of this over the years with a  
18 number of different consultants and the thing with electric  
19 utilities is that they are heavily scrutinized by the  
20 financial community, Moody's and Standard and Poor's and  
21 other bond rating agencies.

22 We have relied on those things primarily because  
23 it is easy access and it is relatively cheap and we don't  
24 want to re-invent the wheel but we do want to take a second  
25 look at that and I think we potentially have a contractor in

1 place to help us out on that.

2 CHAIRMAN JACKSON: So you would be looking to both  
3 inform yourselves from what has been learned in the  
4 materials area as well as looking at what can be gained from  
5 what is already known in the financial community, is that  
6 your message? MR. WOOD: Yes, that's right.

7 MR. RUSSELL: I think the context of using  
8 indicators to somehow or other potentially look at what our  
9 inspection programs are doing or how we are overseeing is a  
10 little bit different context. Bob is talking about what we  
11 classically do if we get a request for a transfer and we may  
12 look at Value Line or others to see what is the financial  
13 health of the corporation.

14 CHAIRMAN JACKSON: That is what I am talking  
15 about.

16 MR. RUSSELL: We are not using and it was  
17 Commission policy to the staff to not use financial  
18 indicators as a mechanism to prioritize or allocate  
19 resources. What we do instead is we focus on current  
20 performance and our processes for assessing performance and  
21 use that to allocate resources for our activities.

22 CHAIRMAN JACKSON: Commissioner Rogers, do you  
23 have any questions or comments?

24 COMMISSIONER ROGERS: Just on that, that then  
25 again relates to the operating condition.

1 MR. RUSSELL: That's correct.

2 COMMISSIONER ROGERS: And as the Chairman has  
3 emphasized, it is the decommissioning costs that are big  
4 question and the big concern because things can switch so  
5 rapidly with respect to available assets.

6 I don't know to what extent, I don't think you can  
7 rely very much on some of these financial rating  
8 institutions data because that is always after the fact or  
9 pretty much after the fact and you want to be in early to  
10 understand whether something has a rather severe implication  
11 with respect to this ability to fund decommissioning costs  
12 and while I am sure that everyone is going to be concerned  
13 about that, the states will be as others, I still think it  
14 is very important for us to have an early dialogue on that.

15 I do think it may be a delicate matter though and  
16 I just wonder whether the best way to deal with that is  
17 through a letter or not. Some of these considerations may  
18 be very preliminary and it would be well nevertheless for us  
19 to be aware of what the thinking is so that means that there  
20 may be some question of confidentiality that has to be  
21 observed there and it may be that we might give some real  
22 thought as to how to do that in a way that meets our needs  
23 and protects whatever is necessary for confidentiality,  
24 sometimes there is a lot more desired than is absolutely  
25 necessary in some cases.

1           But I think some real thought has to go into that  
2       because it is very important that we have access to various  
3       possible thoughts on things that might happen so they don't  
4       happen so fast that they get away from us and we don't have  
5       a chance to at least exercise a little caution, sound a  
6       cautionary note to those that are involved as to how some  
7       action might impact the ability to fund the decommissioning  
8       costs and what those costs might really be.

9           I think just a little more focus on precisely how  
10      to do that within your own organization might be called for.

11           MR. TAYLOR: I think we would want to look at that  
12      very carefully so we don't create a problem and we will look  
13      at that and certainly discuss our approaches with the  
14      Commission because I think it is a very important issue.

15           COMMISSIONER ROGERS: If you don't approach it  
16      carefully enough, you may find out that you don't get the  
17      information you need when you need it and there might be  
18      another way to do that that would still protect people's  
19      interests and meet our needs.

20           MR. RUSSELL: We may be able to look at 2.790 and  
21      see whether this would be able to be treated as proprietary  
22      information since it relates to future planning. We will  
23      discuss that with General Counsel and see what is the  
24      appropriate approach.

25           MR. TAYLOR: We are knowledgeable how sensitive

1 this information could be at a preliminary stage  
2 financially.

3 COMMISSIONER ROGERS: Right.

4 CHAIRMAN JACKSON: I would like to thank the staff  
5 for a very informative briefing. As deregulation continues  
6 to evolve and the economic and competitive environment  
7 becomes more clearly defined, the primary focus that we have  
8 will obviously be to continue to ensure that high safety  
9 standards are maintained and that decommissioning costs are  
10 adequately funded.

11 I believe that the staff should continue its  
12 forward looking assessment of the impact of deregulation and  
13 along that line I urge you to continue with the initiatives  
14 that you have undertaken as well as ones that have been  
15 suggested by the Commission to assure that public health and  
16 safety and safe decommissioning and the funding for that  
17 remains the focus.

18 I think you have gotten some particular  
19 suggestions from Commissioner Rogers. I think we look  
20 forward to getting your proposed action plan including your  
21 plans relative to the standard review plan with the time  
22 lines and resource commitments associated with it.

23 I think your plans of codifying current practice  
24 and clarifying it within existing regulations and frameworks  
25 is very important and I think your focus subject to the kind

1 of caveats that have just been discussed on having early  
2 notification of significant change and your notifying the  
3 Commission are very important activities. Thank you. We  
4 stand adjourned.

5 [Whereupon, at 10:50 a.m., the meeting was  
6 adjourned.]

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CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: BRIEFING BY STAFF ON INDUSTRY  
RESTRUCTURING AND DEREGULATION -  
PUBLIC MEETING

PLACE OF MEETING: Rockville, Maryland

DATE OF MEETING: Friday, January 5, 1996

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company

Transcriber: Marilynn Estep

Reporter: Marilynn Estep

# STAFF BRIEFING ON INDUSTRY RESTRUCTURING & DEREGULATION

JANUARY 5, 1996



# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## BRIEFING AGENDA

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- BACKGROUND
- ISSUES
- CURRENT STAFF PRACTICE
- BANKRUPTCY PRACTICE
- NEAR-TERM ACTIONS
- MID-TERM ACTIONS
- LONGER-TERM RULEMAKING & GUIDANCE ACTIONS
- CONCLUSIONS

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## BACKGROUND

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- THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 (PURPA)  
AND THE ENERGY POLICY ACT OF 1992
- FERC MEGA-NOPR -- NON-DISCRIMINATORY OPEN ACCESS  
TRANSMISSION AT WHOLESALE
- STATE PUC INITIATIVES TOWARD INCREASED COMPETITION  
--- RETAIL WHEELING

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## ISSUES FACING THE NRC

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- WHAT EFFECTS WILL HIGH COST (STRANDED) ASSETS RESULTING FROM INCREASED COMPETITION HAVE ON THE SAFE OPERATION AND DECOMMISSIONING OF POWER REACTORS?
- WILL DEREGULATION AND RESTRUCTURING RESULT IN NEW TYPES OF OWNERS AND OPERATORS?
- DO OUR EXISTING POLICIES AND REGULATIONS APPLY TO THESE NEW ENTITIES? IF NOT, HOW SHOULD WE CHANGE OUR POLICIES AND REQUIREMENTS?

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## CURRENT STAFF PRACTICE

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- OVER THE PAST 2 YEARS NRR HAS CONDUCTED ~ 15 LICENSING REVIEWS UNDER § 50.80, INVOLVING MERGERS, RESTRUCTURINGS, AND DIRECT SALES OF REACTORS.
- THE STAFF HAS NOT FOUND ANY MERGERS THAT WOULD LIKELY RESULT IN DIMINUTION OF ASSETS.
- FOR RESTRUCTURINGS INVOLVING HOLDING COMPANIES, THE STAFF HAS EITHER REQUIRED THAT THE HOLDING COMPANY BE ADDED TO THE LICENSE OR THE LICENSEE HAS COMMITTED TO INFORM THE NRC BEFORE SIGNIFICANT ASSETS ARE TRANSFERRED. HOWEVER, LICENSEES ARE NOT LEGALLY BOUND TO TELL THE NRC OF SUCH TRANSFERS.
- FOR SALES OF INTERESTS IN POWER REACTORS, THE STAFF HAS EVALUATED THE FINANCIAL QUALIFICATIONS OF EACH BUYER TO DETERMINE THAT IT WILL HAVE ADEQUATE RESOURCES TO OPERATE AND DECOMMISSION ITS REACTOR SAFELY.

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## BANKRUPT LICENSEES

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- 3 POWER REACTOR LICENSEES HAVE SOUGHT BANKRUPTCY PROTECTION FOR REORGANIZATION UNDER CHAPTER 11 OF THE U.S. BANKRUPTCY CODE. (NO POWER REACTOR LICENSEES HAVE SOUGHT LIQUIDATION UNDER CHAPTER 7 OF THE BANKRUPTCY CODE.):
- THE PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE (PSNH) SOUGHT BANKRUPTCY PROTECTION IN JANUARY 1988, PRIMARILY AS A RESULT OF COST OVERRUNS AND RATE DISALLOWANCES ASSOCIATED WITH THE SEABROOK PLANT. PSNH EMERGED FROM BANKRUPTCY IN MAY 1991.
- THE EL PASO ELECTRIC COMPANY (EPEC) SOUGHT BANKRUPTCY PROTECTION IN JANUARY 1992, PRIMARILY AS A RESULT OF EXCESS POWER RESERVES AND INADEQUATE RATE RELIEF TO COVER THE COSTS OF POWER. EPEC REMAINS IN BANKRUPTCY.

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## BANKRUPT LICENSEES -- CONTINUED

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- BOTH PSNH AND EPEC PAID, AND, IN EPEC'S CASE CONTINUE TO PAY, OPERATING AND DECOMMISSIONING COSTS ASSOCIATED WITH THEIR NUCLEAR PLANTS.
- THE CAJUN ELECTRIC POWER COOPERATIVE, INC., SOUGHT BANKRUPTCY PROTECTION IN DECEMBER 1994, PRIMARILY AS A RESULT OF THE COSTS ASSOCIATED WITH THE RIVER BEND NUCLEAR PLANT, OF WHICH CAJUN IS A 30% OWNER. CAJUN REMAINS IN BANKRUPTCY. CONCURRENTLY, AN NRC LICENSING BOARD IS CONSIDERING ISSUES CONCERNING CAJUN'S FINANCIAL ALLEGATIONS AGAINST MAJORITY OWNER, GULF STATES UTILITIES, INC.

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## NEAR-TERM STAFF ACTIONS

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- CONTINUE TO PERFORM § 50.80 REVIEWS OF ALL POWER REACTOR LICENSEE TRANSFERS OF CONTROL FOR FINANCIAL QUALIFICATIONS AND ANTITRUST CONSIDERATIONS.
- NRR HAS CHANGED THE LEVEL OF SIGNATURE AUTHORITY FOR APPROVING § 50.80 TRANSFERS OF CONTROL AND CHANGES IN OWNERSHIP UP TO THE OFFICE DIRECTOR LEVEL. THE STAFF WILL INFORM THE COMMISSION OF ANY CHANGES THAT WOULD RESULT IN A LICENSEE CEASING TO BE AN "ELECTRIC UTILITY."
- DEVELOP AN ACTION PLAN FOR FOLLOW-ON ACTIVITIES.
- DEVELOP GUIDANCE ON NRC FINANCIAL QUALIFICATIONS AND ANTITRUST PROCESSES TO ENSURE CONTINUED OWNER/OPERATOR RESPONSIBILITY FOR SAFE OPERATION AND DECOMMISSIONING, INCLUDING THE UNCERTAINTY OF ESTIMATES AS THEY MAY BE AFFECTED BY LOW-LEVEL WASTE COSTS OR OTHER FACTORS.

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## MID-TERM STAFF ACTIONS

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- EVALUATE REPORTING REQUIREMENTS UNDER § 50.80 AND § 50.81 FOR ASSET TRANSFERS OR OWNER/CREDITOR OR STRUCTURAL CHANGES TO DETERMINE THE NEED FOR EITHER LICENSE CONDITIONS OR A GENERIC LETTER TO ENSURE THAT NRC IS INFORMED OF ALL SUCH CHANGES.
- DEVELOP OPTIONS FOR PERIODIC REPORTING ON THE STATUS OF LICENSEE DECOMMISSIONING FUNDS.
- UPDATE PRIOR NUREGS ON OWNERSHIP OF NUCLEAR POWER PLANTS AND ANTITRUST RESPONSIBILITIES.
- EXPLORE A MECHANISM TO DEVELOP ON-GOING STAFF-LEVEL CONTACT WITH FERC AND THE APPROPRIATE NARUC STAFF SUB-COMMITTEES.



# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## AREAS NEEDING GUIDANCE

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- DELINEATE THE NRC POSITION ON DIFFERENT OWNERSHIP ARRANGEMENTS:
  - HOLDING COMPANIES
  - OPERATING/GENERATING/SERVICE COMPANIES
  - MERGERS
  - INDEPENDENT POWER PRODUCERS
  - EXEMPT WHOLESALE GENERATORS (EWGS)
- PREPARE GUIDANCE TO STATE THAT THE NRC WILL TAKE ANY MEASURES AVAILABLE UNDER ITS LICENSING PROCESS TO PREVENT REDUCTION OF THE ASSETS NECESSARY FOR SAFE OPERATION AND DECOMMISSIONING. INITIAL LICENSING AND DECOMMISSIONING RULES WERE PREDICATED ON THE ASSUMPTION THAT A MINIMUM LEVEL OF ASSETS WOULD BE AVAILABLE AND THAT POWER REACTOR LICENSEES WOULD EITHER SET THEIR OWN RATES OR WOULD HAVE RECOURSE TO RATE PAYERS. RESTRUCTURINGS THAT SIGNIFICANTLY REDUCE ASSETS ARE A VIOLATION OF THIS ASSUMPTION.
- THE NRC WILL REITERATE ITS ASSUMPTION REGARDING THE LIABILITY OF OWNERS FOR OPERATING AND DECOMMISSIONING EXPENSES.

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## LONGER-TERM STAFF ACTIONS -- RULEMAKING & REGULATORY GUIDANCE

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- RULEMAKING TO CLARIFY THAT § 50.80 APPLIES TO ALL CHANGES IN LICENSEES AND OWNERS THAT REDUCE ASSETS OR RECOURSE TO RATE RECOVERY.
- CONTINUE TO ASSIST THE OFFICE OF RESEARCH IN DEVELOPING AN ADVANCE NOTICE OF PROPOSED RULEMAKING (ANPR) ON ENHANCED DECOMMISSIONING FUNDING ASSURANCE FOR LICENSEES THAT LOSE RATE REGULATORY OVERSIGHT. (THIS RULEMAKING IS SEPARATE FROM THE RULEMAKING ON REACTOR DECOMMISSIONING COST FORMULAS.)
- DEPENDING ON ANALYSIS OF ABOVE ANPR RESPONSES, DEVELOP A PROPOSED RULE. AS PROPOSED IN SECY-95-223, THE RULE SHOULD AT LEAST TIGHTEN THE DEFINITION OF "ELECTRIC UTILITY" IN § 50.2 AND REQUIRE PERIODIC REPORTING ON THE STATUS OF DECOMMISSIONING FUNDS.
- CONCURRENT WITH THESE RULEMAKINGS, DEVELOP A STANDARD REVIEW PLAN TO PROVIDE FURTHER DETAIL WITH RESPECT TO NRC'S EXPECTATIONS REGARDING ASSURANCE OF FUNDS FOR SAFE OPERATION AND DECOMMISSIONING.

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## CONCLUSIONS

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- THE STAFF DOES NOT YET KNOW THE EXTENT OF CHANGES OCCURRING AS A RESULT OF THE DEREGULATION OF THE ELECTRIC UTILITY INDUSTRY, BUT IT RECOGNIZES THAT CHANGE IS INEVITABLE.
- THE NRC NEEDS TO ENSURE SAFE OPERATION AND DECOMMISSIONING OF ITS LICENSED POWER REACTORS.
- THE STAFF MUST BE ABLE TO IDENTIFY ALL OWNERS AND OPERATORS OF EACH POWER REACTOR FACILITY AND THE ASSET BASE AND RECOURSE TO RATE RECOVERY OF EACH.

# ELECTRIC UTILITY DEREGULATION AND NUCLEAR PLANT SAFETY

## CONCLUSIONS -- CONTINUED

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- THE STAFF INTENDS TO TAKE ACTIONS IN THE SHORT TERM TO STRENGTHEN ITS FINANCIAL QUALIFICATIONS AND ANTITRUST REVIEW PROCESSES.
- THE STAFF RECOMMENDS THAT RULEMAKING ON ADDITIONAL FUNDING ASSURANCE FOR, AND CLARIFICATION OF, NON-UTILITY POWER REACTOR LICENSEES BE CONTINUED. ASSOCIATED STANDARD REVIEW PLANS AND OTHER GUIDANCE SHOULD ALSO BE DEVELOPED.
- WE DO NOT BELIEVE THAT A LARGE-SCALE OVERHAUL OF EXISTING REGULATIONS IS NEEDED AT THIS TIME.
- THE STAFF INTENDS TO DEVELOP A PLAN OF ACTION AND MILESTONES FOR COMMISSION CONSIDERATION AND PUBLIC COMMENT.