



Omaha Public Power District
444 South 16th Street Mall
Omaha NE 68102-2247

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PROPOSED RULE PR 50
(61 FR 15427) (11)

U. S. Nuclear Regulatory Commission
The Secretary of the Commission
Attn: Docketing and Service Branch
Washington, D.C. 20555-0001

References: 1. Docket No. 50-285
2. Federal Register Volume 61, No. 68, dated April 8, 1996
(61 FR 15427)

SUBJECT: Comments on Proposed Rulemaking Regarding Financial Assurance Requirements for Decommissioning Nuclear Power Reactors

The Omaha Public Power District (OPPD) has reviewed Reference 2 regarding the financial assurance requirements for decommissioning nuclear power plants. The NRC issued this advance notice of proposed rulemaking to invite public comment on issues pertaining to the form and content of the NRC's nuclear power reactor decommissioning financial assurance requirements as they relate to electric utility deregulation. Reference 2 also solicited comments and supporting reasons on a series of questions arranged by topic. Please find OPPD's comments on the NRC's specific proposal and considerations attached.

If you should have any questions, please contact me.

Sincerely,

T. L. Patterson
Division Manager
Nuclear Operations

TLP/d11

Attachment

c: Winston & Strawn
L. J. Callan, NRC Regional Administrator, Region IV
L. R. Wharton, NRC Project Manager
W. C. Walker, NRC Senior Resident Inspector
Document Control Desk

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OMAHA PUBLIC POWER DISTRICT
Fort Calhoun Station Unit No. 1

**Comments on Proposed Rulemaking:
Financial Assurance Requirements for Decommissioning
Nuclear Power Reactors**

Specific Proposal:

The NRC is considering amending 10 CFR 50.2, 50.75 and 50.82 to:

- 1) *Require that electric utility reactor licensees provide assurance that the full estimated cost of decommissioning will be available through an acceptable guarantee mechanism if the licensees are no longer subject to rate regulation by State public utility commissions (PUCs) or the Federal Energy Regulatory Commission (FERC), and do not have a guaranteed source of income.*

OPPD's comments:

The supposition that a licensee might not be subject to regulation by a PUC or FERC, or might not have a guaranteed source of income in the future, should not precipitate the imposition of additional decommissioning funding requirements or guarantees on the licensee before such a situation develops. The NRC should recognize that all electric utility reactor licensees will not be in this situation; therefore, any such requirement(s) should offer the utilities flexibility in recovering decommissioning funds. Each situation should be assessed if and when it occurs on a case-by-case basis. Any additional costs imposed on a licensee due to a change in decommissioning funding will aggravate potential stranded investment.

- 2) *Allow licensees to assume a positive real rate of return on decommissioning funds during the safe storage period.*

OPPD's comments:

If the safe storage period includes the actual decommissioning period, such a change, based on inflation and investment returns determined by an acceptable third party makes good economic sense.

- 3) *Establish a periodic reporting requirement.*

OPPD's comments:

OPPD's Decommissioning Funding Plan presently provides for two annual reports to the NRC, a Trust Accounting and an independent audit. OPPD considers these to be good practices.

Specific Considerations:

The NRC solicited comments and supporting reasons on the following questions arranged by topic.

A. Timing and Extent of Electric Utility Industry Deregulation

- A.1 What is the likely timetable for industry restructuring and deregulation?*

Unknown. It is too early in the deregulation effort to make meaningful predictions.

- A.2 Will the electric utility industry go through several phases as it responds to deregulation and other competitive pressures?*

Unknown.

- A.3 Some States appear to oppose deregulation. Will they be able to maintain their opposition if neighboring States deregulate?*

Unknown.

B. Stranded Costs

- B.1 How will restructuring affect large baseload plants that currently receive rate relief to cover construction costs or have a portion yet to be phased into the rate base?... What will be the source of funds to prematurely and safely shut down an uneconomic plant?*

Federal and State regulators and legislators are debating the issue of stranded investment. If and how their costs might be recovered through surcharges or other mechanisms is unknown at this time.

C. Nuclear Financial Qualifications and Decommissioning Funding Assurance

- C.1 If nuclear plants are shutdown prematurely, how will licensees who can no longer pass costs through to ratepayers provide for a shortfall of decommissioning funds?*

A proper funding mechanism would have to be implemented at the shutdown. Depending upon the reason and timing of the shutdown, the funding mechanisms could vary considerably.

- C.2 At what point does an operator of a nuclear power plant cease to be a "utility" as defined in 10CFR50.2?*

OPPD would continue to be a utility.

- C.3 ... would it be appropriate to require financial assurance for the decommissioning costs in full prior to NRC approval of such reorganizations?... Should the NRC require, as a condition of approval of certain reorganizations involving the transfer of control of a nuclear power plant, that newly created organizations or holding companies sign a binding agreement that holds them jointly liable for decommissioning costs associated with that nuclear power plant?

See OPPD's response to Specific Proposal #1.

- C.4 Should the NRC require a licensee to provide a reasonable assurance of the availability of funds for decommissioning by imposing a minimum level of net worth, cash flow, or other financial measure...?

See OPPD's response to Specific Proposal #1.

- C.5 Would PUCs and FERC be willing to certify that licensees under their jurisdictions, both electric utility and Part 50 licensees other than electric utilities, would be allowed to collect sufficient revenues through rates to complete decommissioning funding?

Unknown.

- C.6 What would be the impact if the NRC required licensees to accelerate collection of decommissioning funds such that decommissioning funding for all plants would be complete within 10 years (or some other time period)?

Any earlier funding period will aggravate the issue of stranded cost nuclear units.

- C.7 ...If these estimates turn out to be low far in the future (for example, if final dismantlement occurs after a 50-year safe storage period), how will underfunding be remedied?

Funds should be accumulated based on best current estimates and any shortfalls handled through appropriate funding mechanisms, if they occur. Again, imposition of additional costs on the licensees will only aggravate potential stranded investments.

- C.8 Would it be feasible for the nuclear industry to develop a captive insurance pool to pay for decommissioning funding shortfalls that result from premature decommissioning? Could such a pool be structured similarly to Nuclear Mutual Limited (NML) and Nuclear Electric Insurance Limited (NEIL)...?

This would probably not be feasible as this is different from insurance where minimums are set.

- C.9 *If PUC or FERC oversight is either substantially limited or eliminated, are there any other options for financial assurance of decommissioning that the NRC should consider.*

No comment.

D. Decommissioning Funding Assurance and a Federal Government Licensee

- D.1 *...should the regulations continue to permit the provision of a statement of intent as the method by which these licensees provide financial assurance for decommissioning...Does this fact or any other factors militate for or against allowing Federal utility licensees to continue to use statements of intent as the method by which financial assurance for decommissioning is provided?*

No comment.

E. Status of Decommissioning Trust Funds During Safe Storage Period

- E.1 *What real rate(s) of return should the NRC allow licensees to use as credit for earnings on the decommissioning trust funds during the extended safe storage period?*

See OPPD's response to Specific Proposal #2.

- E.2 *What time period(s) should the NRC allow licensees to use in estimating the credit for earnings on the decommissioning trust funds during the extended safe storage period?*

The time period should include the actual decommissioning period.

F. Reporting on the Status of Decommissioning Funds

- F.1 *What information should the NRC require to be included in the periodic reporting requirements?*

An annual accounting from the Trustee and an annual external audit.
(See OPPD's response to Specific Proposal #3.)

- F.2 *How often should the NRC require licensees to report on the status of decommissioning funding?*

Annually (See OPPD's response to F.1).