



**National Rural Electric
Cooperative Association**

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(61FR49711)

February 7, 1997

Mr. John C. Hoyle
Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

ATTENTION: Docketing and Service Branch

SUBJECT: NRC Draft Policy Statement on the Restructuring and
Economic Deregulation of the Electric Utility Industry
(61 Fed Reg 49711: September 23, 1996)

Dear Mr. Hoyle:

I am writing on behalf of the National Rural Electric Cooperative Association (NRECA) which represents the national interests of consumer-owned cooperative electric utilities. The nearly 1,000 electric co-ops serve more than 30 million people in 46 states and in 2,600 of the nation's 3,100 counties. Seventy five percent of the electricity generated by the electric cooperatives comes from coal fired power plants, however, the cooperatives collectively own minority capacity in nuclear power plants exceeding 3,000 MW. On behalf of its members, the NRECA offers the following comments on the Nuclear Regulatory Commission's *Draft Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry*.

The draft policy statement offers an excellent beginning to establishing a policy covering the many aspects and changes emanating from the heightened competitive nature of the electric industry. Such a policy statement offers guidance to NRC staff, licensees and regulatory agencies on arising issues that may result from industry restructuring. The Draft Policy Statement is a reasonable approach to addressing these issues and the public notice is appreciated.

NRECA agrees with the NRC on the statement that it is important to establish and maintain staff-level working relationships with State and Federal rate regulators. While nuclear safety is a priority relationship at the Nuclear Regulatory Commission, the safe and reliable operation of these plants is also of utmost importance to the licensees who operate and depend upon nuclear power for reliable, non-polluting energy. The NRC should work more closely with state rate

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regulators to ensure that these regulators provide sufficient utility rate funding to ensure the continued safe operation of nuclear power plants

The Draft Policy Statement expressed concern that due to the pace of restructuring, organizational changes and rate deregulation could occur rapidly without the NRC's knowledge. There are many changes currently taking place in some states, and other states are actively studying restructuring, intending to adopt some form of competition and restructuring in the future. These changes are not happening overnight, however, nor are they done in secret. The trade press, newspapers and many organizations are keeping track of the potential changes and announce these changes so that all can know. NRECA agrees with the NRC decision to establish and maintain staff-level working relationships with State and Federal rate regulators in order to assure itself that it is being adequately informed in these matters. As the industry changes, the NRC and its regulations must adapt to these changes.

The NRC has authority to require licensees to inform it of any changes that would constitute a transfer of the licenses, directly or indirectly. Licensees have been previously informed by the NRC of their responsibility to assure that information regarding a licensee's financial qualifications and decommissioning funding assurance, which may have a significant implication for public health and safety, be reported to the NRC. This was included in a June 21, 1996 NRC Administrative Letter to licensees reminding them of their responsibility to inform it of actions involving a change to the license. The NRC should consider sending a similar letter to licensees about the need to be kept informed of possible state restructuring changes that could effect the operating and maintenance expenses or the assurance of decommissioning funds.

A further statement is made that the NRC believes that its concerns with deregulation and restructuring lie primarily in the area of decommissioning funds. We believe that the NRC should take action to assure a continued collection of decommissioning funds before federal and state policy makers. In a restructured industry with market driven rates, it is imperative that nuclear decommissioning funds be made a part of the cost of electricity. The NRC must work with congressional staffs, state organizations and other federal agencies to ensure that whenever restructuring proposals are put forward, there is coverage for decommissioning.

As an example, Senator Dale Bumpers recently introduced bill S.237 "Electric Consumers Protection Act of 1997" which includes the following paragraph:

SEC 114 - NUCLEAR DECOMMISSIONING COSTS

To ensure safety with regard to the public health and safe decommissioning of nuclear generating units, retail and wholesale electric energy suppliers and retail electric energy providers owning nuclear generating units prior to the date of enactment of this Act shall be entitled and obligated to recover, from their customers, all reasonable costs associated with Federal and State requirements for the decommissioning of such nuclear generating units.

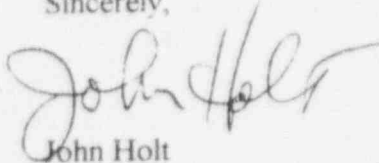
Many of the restructuring proposals being advanced do not include such coverage. NRECA believes that the NRC must actively deal with the originators of such proposals to have input into

this issue. The Department of Energy has a draft industry restructuring proposal reflecting the Administration's position, which is currently circulating for interagency review. The Nuclear Regulatory Commission should assure itself that the Department of Energy has adequately covered decommissioning funds in this proposal.

The NRC views all co-owners as co-licensees who are responsible for complying with the terms of their license. The NRC expresses concern for the division of responsibility for operating and decommissioning funds when co-owners file for bankruptcy or otherwise encounter financial difficulty. Because of the high capital cost experienced during the construction of many of the nuclear power plants, a number of rural electric cooperatives, which were, or are, co-owners, have experienced financial difficulty or ultimately got into bankruptcy. Cajun Electric Power Cooperative is such a cooperative, which even in bankruptcy, continued to put funds into the decommissioning fund. In a proposed settlement, the cooperative has offered to pay its decommissioning funds in full to the majority plant owner.

NRECA appreciates the opportunity to comment on this statement.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Holt".

John Holt
Manager
Fuels and Transportation