

REGULATORY GUIDE

OFFICE OF STANDARDS DEVELOPMENT

REGULATORY GUIDE 9.2

INFORMATION NEEDED BY THE NRC STAFF IN CONNECTION WITH ITS ANTITRUST REVIEW OF CONSTRUCTION PERMIT APPLICATIONS FOR NUCLEAR POWER PLANTS

A. INTRODUCTION

As required by the December 19, 1970, amendments to the Atomic Energy Act of 1954, the Nuclear Regulatory Commission conducts precicensing antitrust reviews with respect to construction permits and operating licenses it issues for commercial nuclear facilities. The Commission, under certain circumstances, must make a finding as to whether the activities under the permit or license would create or maintain a situation inconsistent with the antitrust laws. Prior to issuance of a permit to construct a commercial nuclear facility, an antitrust review must be conducted by the Attorney General and by the NRC staff. This guide identifies the information needed by the NRC staff to initiate its portion of the antitrust review of a construction permit application.¹

B. DISCUSSION

The licensing of a commercial nuclear facility by the Nuclear Regulatory Commission is divided into two stages—the construction permit stage and the operating license stage. Upon receipt of a construction permit application, the Nuclear Regulatory Commission must promptly forward a copy of the application, along with certain other information, to the Attorney General for antitrust review. Within 180 days after the application is docketed and transmitted to the Attorney General, he is required to render such antitrust advice to the Commission as he determines to be appropriate.

An evidentiary hearing may be required if the Attorney General finds that there are antitrust aspects that cannot otherwise be resolved. If the Attorney

¹The information needed for the antitrust review by the Attorney General is identified in Appendix L to 10 CFR Part 50.

USNRC REGULATORY GUIDES

Regulatory Guides are issued to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations, to delineate techniques used by the staff in evaluating specific problems or postulated accidents, or to provide guidance to applicants. Regulatory Guides are not substitutes for regulations, and compliance with them is not required. Methods and solutions different from those set out in the guides will be acceptable if they provide a basis for the findings requisite to the issuance or continuance of a permit or license by the Commission.

Comments and suggestions for improvements in these guides are encouraged at all times, and guides will be revised, as appropriate, to accommodate comments and to reflect new information or experience. This guide was revised as a result of substantive comments received from the public and additional staff review.

General does not recommend a hearing, the Commission may still decide to hold one on its own volition or in consideration of petitions for leave to intervene on antitrust matters. This guide deals with antitrust information needed by the NRC staff at the construction permit stage. Regulatory Guide 9.3, "Information Needed by the AEC Regulatory Staff in Connection with Its Antitrust Review of Operating License Applications for Nuclear Power Plants," should be consulted for an identification of the type of information that the NRC staff considers in determining whether a second antitrust review is required at the operating license stage.

C. INFORMATION NEEDED BY THE NRC STAFF IN CONNECTION WITH ITS ANTITRUST REVIEW OF CONSTRUCTION PERMIT APPLICATIONS FOR NUCLEAR POWER PLANTS

1. The following information is needed by the NRC staff for antitrust review at the construction permit stage:

a. Prospectus submitted by the applicant to the Securities and Exchange Commission for the most recent offering of securities.

b. A copy of applicant's most recent annual report to stockholders and most recent Form 1 and Form 12 as filed with the Federal Power Commission. If applicant's most recently filed Form 1 or Form 12 references previously filed Form 1s or Form 12s, the previous Form(s) are also needed.

c. Copies, and identification by rate schedule number, of applicant's rate schedules and agreements filed with the Federal Power Commission or with other regulatory bodies having jurisdiction. Copies of power supply or coordination arrangements not on file, or if not reduced

*Lines indicate significant changes from previous issue.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

The guides are issued in the following ten broad divisions:

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| 1. Power Reactors | 6. Products |
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| 4. Environmental and Siting | 9. Antitrust Review |
| 5. Materials and Plant Protection | 10. General |

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to writing, a description of the provisions in effect or anticipated. If the schedule or arrangement is identical or similar for each of a number of systems, a sample and a list of those systems to which the sample pertains, showing any significant differences, is satisfactory in lieu of a separate copy of each.

d. History of the applicant, if one has been developed.

e. Most recent diagrams showing the applicant's annual transmission additions proposed through the year in which the nuclear plant is planned. Also, normal system peak- and light-load base-case load-flow diagrams for 161-kV transmission and above with the nuclear plant in operation and just prior to when the nuclear plant is in operation.

f. A listing and brief description of the arrangements other than normal firm sales for resale which applicant has been requested to provide or currently has in effect which permits or would permit smaller adjacent electric utilities to effect options for (1) joint ownership or unit participation in large-scale nuclear and other base-load generation, (2) pooling and sharing of reserves with other electric utilities, (3) joint ownership or unit participation in non-base-load generation such as cycling and peaking units, and (4) participation in coordinated transmission planning and transmission services.

g. Identification and brief description of joint ventures in generation ownership or participation entered into during the last five years.

h. Identification of the expected participants in the nuclear project and their respective capacity allotments.

i. Documents, as available, which describe the method of scheduling and dispatching of generation, type of

generation and interchange control, description of control center and communication system, maintenance scheduling plan and method of coordination with others, and installed and spinning reserve goals or criteria.

2. One copy of the information described in 1.a, 1.b, and 1.c above should be submitted as a separate document entitled "Part A of the Information Requested in Regulatory Guide 9.2."

3. Concurrently, five copies of the information requested in items 1.d through 1.i above should be submitted as a separate document entitled "Part B of the Information Requested in Regulatory Guide 9.2."

4. The information requested herein should be addressed to the Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. It should accompany, or follow as soon thereafter as possible, the document containing the antitrust information required by 10 CFR § 50.33a.

5. Information contained in documents previously submitted to the Nuclear Regulatory Commission may be incorporated by reference to the specific information previously submitted in lieu of submitting additional copies of the information.

D. IMPLEMENTATION

Since this revision requests less information than the initial version of this guide, it may be used as soon as it is issued in developing submittals for construction permit applications. However, submittals already under development using the guidance in the previous version of this guide will be accepted for review.