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STATE OF ILLINOIS  
**DEPARTMENT OF NUCLEAR SAFETY**

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DOCKETED  
USNRC

**DOCKET NUMBER**  
**PROPOSED RULE** **50**  
**(67FR 38427)**

June 25, 2002

July 3, 2002 (4:23PM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Secretary, U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
Attention: Rulemaking and Adjudications Staff

Re: Financial Information Requirements for Applications To Renew or Extend the  
Term of an Operating License for a Power Reactor--Proposed Rule (Federal  
Register, June 4, 2002)

Dear Madam Secretary:

These comments are submitted by the Illinois Department of Nuclear Safety (IDNS) in response to NRC's proposed rule amending 10 CFR 50.33 to remove the requirement that non-electric-utility power reactor licensees submit financial qualifications information in license renewal applications. The Department is concerned that the proposed rule may weaken the protection of the public safety if NRC is not diligent in its implementation of other provisions to ensure that deregulated power reactors have sufficient resources to fully comply with regulatory requirements.

IDNS has primary responsibility for the coordination and oversight of all State governmental functions in Illinois concerning the regulation of nuclear power, including low-level radioactive waste management, environmental monitoring, and transportation of nuclear waste. IDNS implements Illinois' responsibilities under the Agreement State program and memorandums of understanding with the NRC regarding regulation and inspection of nuclear power plants in Illinois. IDNS has primary State responsibility for formulating a comprehensive emergency preparedness and response plan for nuclear accidents and is responsible for radiological training of state and local emergency response personnel.

The proposed rule would relieve power reactor licensees that are not electric utilities subject to ratemaking processes from the requirement to submit financial qualifications information in their license renewal applications. NRC

states that case-by-case determinations of financial qualifications would be resource-intensive and may result in delays in approving renewal applications. 67 Fed. Reg. 38427.

NRC gives the following explanation for its proposed actions:

With one exception, the NRC has provisions in its regulations to evaluate a nuclear power reactor applicant's or licensee's financial qualifications at several points—at initial licensing, before license transfers, and when circumstances warrant an ad hoc request for additional financial information. In addition, the NRC staff informally monitors the financial trade press for information on its licensees' financial situations. The one exception relates to a situation when a licensee transitions from an electric utility to an entity other than an electric utility without transferring its license. This proposed rule would rectify the regulatory gap by imposing a request for financial qualifications information from the licensee. With the addition of this provision, the Commission believes it has a basis for concluding that it is unnecessary to review financial qualifications information explicitly during the license renewal process for holders of operating licenses for nuclear power reactors. 67 Fed. Reg. 38428

While the first sentence quoted above does not quite make sense if read literally, NRC appears to be saying that it believes it does not need financial qualifications information from a non-utility power reactor licensee at the time of a license renewal application because financial qualifications information is evaluated at initial licensing, before license transfers and when circumstances warrant ad hoc requests for additional information. NRC's only concern with the present scheme is that NRC does not receive financial qualifications information at the time an electric utility power reactor licensee reorganizes as a non-utility without transferring its NRC license (unless, of course, NRC makes an ad hoc request for financial information at that time). The proposed rule would adopt a requirement in 10 CFR 50.76 requiring submission of financial qualifications information from a power reactor licensee that transitions from an electric utility to a non-utility without transferring its NRC license.

IDNS agrees with the portion of the proposed rule that requires submission of financial qualifications information when a power reactor licensee transitions

from a regulated electric utility to a deregulated entity but does not transfer its NRC license. IDNS does not agree that this change alone is adequate. We are uncomfortable with NRC's reliance on financial qualifications reviews at initial licensing, before license transfers, and when NRC may feel like making an ad hoc request. NRC's review of financial qualifications information during initial licensing is of little relevance to the financial qualifications of a licensee at the time of a license renewal application some 30 or so years after the initial licensing. Similarly, review of financial qualifications information at the time of a license transfer has little relevance to the qualifications of the licensee at the time it requests a license renewal years after the license transfer. In today's extremely dynamic economy, enormous changes in a company's financial situation can occur over a span of months--witness the demise of Enron. Years' old financial information is virtually worthless.

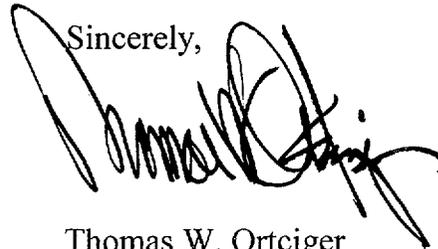
Finally, in what appears to be almost an afterthought, NRC points out that it can make ad hoc requests for financial qualifications information "when circumstances warrant." 67 Fed. Reg. 38428. NRC states that its staff "informally monitors the financial trade press for information on its licensees' financial situations" and that Section 50.33(f)(4) "permits the NRC to require license applicants or licensees to submit relevant financial information on the qualifications of the licensee to manage licensed activities at any time." *Id.* (emphasis added).

The national interest demands that NRC remain vigilant in protection of the public safety. It seems to IDNS that it is entirely appropriate for NRC to require deregulated power reactor licensees that are applying to extend their licenses to demonstrate that they have adequate financial qualifications to operate their plants with an adequate margin of safety, defend against terrorist attacks, promptly respond to emergencies, and fulfill their responsibilities under the Price-Anderson Act. To eliminate that requirement to avoid "resource-intensive" tasks and to speed up license renewal applications raises serious questions about NRC's priorities. IDNS sincerely hopes that the public does not ever have grounds to believe that NRC is another federal agency apparently "asleep at the wheel" when the public safety is at peril.

If the proposed changes are adopted, it is imperative that NRC adopt and implement procedures to continually monitor the financial qualifications of deregulated power reactor licensees and not hesitate to exercise its authority under Section 50.33(f)(4) at the first indication that a licensee's financial qualifications may be inadequate. The specter of an Enron collapse among nuclear power plant licensees is too frightening to consider.

Secretary, U.S. Nuclear Regulatory Commission  
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If you have any questions, please contact IDNS' Chief Legal Counsel, Stephen J. England, at 217/524-5652.

Sincerely,  


Thomas W. Ortziger  
Director

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