Exelon Decommissioning Funding Assurance

Adam H. Levin

Exelon Generation Company, LLC

NRC Decommissioning Funding Assurance

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Discussion Points

- Timing for resolving decommissioning trust funding assurance shortfalls
- Use of a discounted parent company guarantee to satisfy NRC funding assurance requirements

2009 Status of Exelon's Decommissioning Funding Assurance

- In its 2009 biennial submission, Exelon did not meet NRC's Minimum Funding Assurance requirements of 10 CFR 50.75 for a number of nuclear units
- Exelon implemented a number of actions to address the funding assurance shortfalls and ultimately obtained parent company guarantees ("PCG") to cover the spread

2011 Status of Exelon's Decommissioning Funding Assurance

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- In its upcoming 2011 biennial submission, Exelon has determined it will meet NRC's Minimum Funding Assurance requirements of 10 CFR 50.75 for <u>all</u> of its nuclear units
- As of December 31, 2010, the recovery in the financial markets has fully covered all decommissioning funding assurance shortfalls
- Exelon will be reporting as such on or before March 31, 2011, and will also be advising NRC that it intends to eliminate its PCG's, as they are no longer required

Timing for Resolving the Funding Assurance Shortfalls (1)

- NRC Staff's interpretation of the regulations at 10 CFR 50.75 required Exelon to institute PCG's within 3 months of recognizing the underfunding, but no later than March 31st, 2009
- In a previous communication to the Commission (SECY-06-0073), NRC Staff supported an interpretation of the regulatory guidance consistent with Exelon's:
  - *Under the guidance of Regulatory Guide 1.159, Rev. 1, a licensee not subject to a rate setting authority should make necessary adjustments "at least once every two years, in conjunction with the biennial report." Therefore, the staff would expect the licensee here to set aside additional funds or provide addition funding assurance mechanisms by the time of the next biennial report such that projected funds assured will meet or exceed the respective formula amounts.*

Timing for Resolving the Funding Assurance Shortfalls (2)

- Requiring resolution of the funding assurance shortfalls on an expedited bases (such as three months) is a short-sighted view of a long-term investment strategy and pre-supposes a permanent or long-term economic decline
- Exelon’s experience shows that the recovery in the financial markets resolved all funding assurance shortfalls within two years
- This experience demonstrates that the existing regulatory framework works, and the guidance is sound

Concerns with an Expedited Period to Resolve Funding Assurance Shortfalls

- Might result in actions to close the funding assurance shortfall by adjusting trust portfolios in a manner detrimental to funding efficiency
- Taking actions with fund assets to attempt recovery would:
  - Create distortions in long-term investment strategies
  - Invites poor fund investment behavior
  - Generate taxes on unrealized gains – eroding funding long term
- Obtaining a letter of credit in an illiquid market – very costly, if available

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Parent Company Guarantees

- Determination of the face value amount of the parent guarantee
- NRC Staff's position has been to use:
  - the future value of the funding shortfall, and
  - an "end-of-year" convention for investment returns
- Exelon supports:
  - the use of a net present value ("NPV") methodology,
  - a commitment to update the amount of the guarantee on an annual basis, and
  - a "mid-year" convention for investment returns

Summary

- The two-year period to resolve funding assurance shortfalls is the proper approach as directed by the Commission
- Providing parent guarantees to cover the future value of any shortfall, as NRC has proposed, has no clear regulatory basis
- If a PCG face amount (NPV) is adjusted annually as proposed by Exelon, the guarantee, if ever executed and converted to fund assets, will grow with the balance of the trust funds to meet NRC decommissioning obligations – hence the very reason for using a NPV to measure the funding assurance shortfall