

October 26, 2011

FOR: The Commissioners

FROM: Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY FINDINGS RESULTING FROM THE STAFF REVIEW OF
THE 2010 DECOMMISSIONING FUNDING STATUS REPORTS FOR
OPERATING POWER REACTOR LICENSEES

PURPOSE:

This paper informs the Commission of the Nuclear Regulatory Commission (NRC) staff's findings from the review of the 2010 decommissioning funding status (DFS) reports for operating power reactor licensees. The DFS reports are required under Title 10 of the *Code of Federal Regulations* (10 CFR) 50.75(f)(1). The 2010 DFS reports were due to the NRC by March 31, 2011, reflecting information as of December 31, 2010.

BACKGROUND:

In 1988, the NRC established requirements to assure that decommissioning of all licensed facilities will be accomplished in a safe and timely manner and that adequate licensee funds will be available for this purpose. "Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits (1) release of the property for unrestricted use and termination of the license; or (2) release of the property under restricted conditions and termination of the license. For reactor licensees, the costs of spent fuel management, site restoration, and other costs not related to termination of the license are not included in the financial assurance for decommissioning.

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The requirements for reactor licensees are stated in 10 CFR §§ 50.33(k), 50.75, and 50.82. Reactor licensees must certify they provide not less than a minimum prescribed amount of financial assurance for decommissioning. The amount to be provided must be adjusted annually to account for cost escalation.

In 1998, the NRC amended the financial assurance rules to respond to the anticipated rate deregulation of the power generating industry. The amendments provided additional methods and flexibility for reactor licensees to provide financial assurance. The NRC required licensees to periodically submit a DFS report in order to obtain the information necessary to monitor the status of decommissioning funds. The Office of Nuclear Reactor Regulation's Office Instruction LIC-205, Revision 4, "Procedures for NRC's Independent Analysis of Decommissioning Funding Assurance for Operating Power Reactors," dated December 2010, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML103410283) describes the analysis performed by the NRC staff to determine if the licensee has provided adequate decommissioning financial assurance.

DISCUSSION:

The NRC staff has reviewed the information in the 2010 DFS reports for all 104 operating nuclear power reactors, reflecting power reactor ownership by single or multiple licensees. A table summarizing all reviews¹ performed by the NRC staff is enclosed and also available at ADAMS Accession No. ML112410047.

Results of NRC Staff's Review:

The NRC staff's review resulted in the following findings:

- The amount accumulated, as of December 31, 2010, for all operating power reactor licensees totaled \$40.4 billion. The total amount accumulated represents a 29 percent increase from the total amount accumulated reported in the 2008 DFS reports (\$31.3 billion).
- As of December 31, 2010, 99 of the 104 operating nuclear power reactor licensees were providing decommissioning funding assurance, as stipulated in 10 CFR 50.75. The 5 power reactor licensees that were not providing the full amount of decommissioning funding assurance, as of December 31, 2010, were: Beaver Valley Power Station, Unit 1 (BVPS 1); Limerick Generating Station, Unit 1 (Limerick 1); Palisades Nuclear Plant (Palisades); Perry Nuclear Power Plant (Perry); and Prairie Island Nuclear Plant, Unit 1 (Prairie 1).
- BVPS 1, Perry, and Palisades provided information to resolve their shortfalls in conjunction with their 2010 DFS reports. BVPS 1 and Perry committed to increase the amount of their supplemental parent company guarantees (PCGs); the PCGs were submitted 90 days after the receipt of the DFS reports. Palisades submitted information showing its decommissioning trust fund balance had increased sufficiently to meet the requirements as of the date of its DFS report submittal. The shortfall for Prairie 1 was

¹ Also within the summary table, are ADAMS Accession Nos. for all of the individual reviews, by power reactor.

resolved in June 2011 when it received approval of its application for license renewal, the effect of which was to extend the period of time for the fund to grow.²

- The licensee for Limerick 1 has not provided a resolution for the shortfall in its 2010 DFS report. (Limerick 1 also reported a shortfall as of December 31, 2008. During the 2008 DFS report process, the licensee stated that it would seek rate relief, if necessary, from the Pennsylvania Public Utilities Commission in 2013 for Limerick 1). As of Oct. 2011, after two rounds of RAI's, no voluntary shortfall resolution has been offered by Limerick 1. The NRC staff is pursuing all available options. The NRC staff will follow-up with the licensee to determine its plan for resolution of the December 31, 2010 shortfall.

Resolution of issues not closed out in SECY-09-0146:

- 27 reactor units had shortfalls that were identified in SECY-09-0146, "2009 Summary of Decommissioning Funding Status Reports For Nuclear Power Reactors", dated October 6, 2009, (ADAMS Accession No. ML092580041).
- The NRC staff has worked with the licensees of the 27 units and all outstanding shortfalls have been resolved.
- The 27 units' shortfalls were resolved in the following manner: one unit received license renewal, supplemented with a PCG; four units achieved sufficient market recovery of their decommissioning trust funds to meet the requirements; one unit used a supplemental PCG; nine units relied on earnings credits projected through a safe storage period; three units relied on earnings credits projected through a safe storage period plus a supplemental PCG; eight units obtained rate relief; and one unit planned to seek rate relief, if necessary.

A non-cited violation was issued for one reactor unit for underreporting the value of securities held in a decommissioning trust fund (ADAMS Accession No. ML110610635). In another instance, a pre-decisional enforcement conference was held to discuss apparent violations with respect to a DFS report submitted in 2009; however, after further evaluation, the NRC staff concluded that no violation occurred (ADAMS Accession No. ML110280410).

Additional information regarding the 2011 DFS Report Review

Since the 2008 DFS reports, submitted in March 2009, the staff conducted three public meetings, held an instructional session at the 2010 Regulatory Information Conference, and participated in a Commission public meeting on decommissioning financial assurance. The staff updated its office instructions to incorporate lessons learned and issued revised regulatory guidance. The licensees improved the quality of the information provided in the 2011 DFS reports submittals.

² The ADAMS Accession Nos. for the additional reviews can be found in the enclosure in the notes section.

CONCLUSION:

Based on the information provided by the licensees in the 2010 decommissioning funding status reports, with one exception, licensees either did not have shortfalls as of December 31, 2010, or resolved the shortfalls as of the date of this summary. The NRC staff will follow up with the licensee that has not resolved its shortfall.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection.

/RA/

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Enclosure:
2010 DFS Reports – Summary Table

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Enclosure:
2010 DFS Reports – Summary Table

WITS 20080001/EDATS: SECY-2011-0474

ADAMS Accession No: ML112800468 (Pkg.); ML112620046 (SECY Paper); ML112410047
(DFS Report Analysis) *via email

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