

May 8, 1997

Mr. L. Joseph Callan
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Callan:

SUBJECT: PROPOSED FINAL POLICY STATEMENT ON THE RESTRUCTURING
AND ECONOMIC DEREGULATION OF THE ELECTRIC UTILITY
INDUSTRY

During the 441st meeting of the Advisory Committee on Reactor Safeguards, May 1-3, 1997, we met with representatives of the NRC staff to discuss the draft final version of the NRC Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry. We also had the benefit of the documents referenced.

Conclusions and Recommendations

The Policy Statement is an important part of the NRC Action Plan on Industry Deregulation and Utility Restructuring and will help to ensure adequate funding for operations and decommissioning of nuclear power plants.

The issues associated with ownership of a U.S. nuclear power plant by a foreign entity should be reviewed so that the Commission will be better prepared to advise on the need for enabling legislation.

The language in the Policy Statement pertaining to the assignment of financial liability for decommissioning costs should be clarified.

The overall Action Plan should give consideration to the following potential safety concerns:

- (1) reductions in manpower and training expenditures that could impact safe plant operations,
- (2) cost-driven changes in plant operations that could significantly reduce safe operating margins,
- (3) inappropriate use of on-line maintenance that could result in a reduction of safety margins, and
- (4) undue erosion of fuel rod integrity margins as burnup increases.

Discussion

As the electric utility industry moves toward deregulation, there may be more premature shutdowns of nuclear power plants as individual utilities seek to minimize costs and reduce financial risk. Recent experience has shown that even some plants with good operating records and in good material condition will be permanently shut down if the owners believe that generating costs exceed the projected market price of electricity.

The concerns regarding adequate funding for decommissioning and an erosion of plant safety brought about by the market pressures of reducing operational costs need to be addressed. There is little experience with the decommissioning of nuclear power plants and the costs associated with disposal of spent fuel and low-level waste could have a significant impact on the total decommissioning costs. Cost estimates for decommissioning should be revised as experience is gained. It is encouraging that, as a few States have moved toward some form of retail electric power deregulation, most Public Utility Commissions have recognized that the issue of decommissioning is a matter of public health and safety and have allowed the recovery of decommissioning costs.

The policy of the NRC is to assign financial liability to licensees for decommissioning prorated according to fractional ownership. The NRC does reserve the right to impose "joint and several" financial liability on co-owners of nuclear power plants. In the Policy Statement, the NRC should make it clear that the agency will resort to "joint and several" liability only in an extreme situation where adequate protection of the public health and safety would otherwise not be maintained.

We would like to be kept informed on the resolution of our concerns associated with the NRC Action Plan pertaining to the restructuring and deregulation of the electric utility industry.

Sincerely,

/s/

R. L. Seale
Chairman

References:

1. Memorandum dated April 3, 1997 from T. T. Martin, Office of Nuclear Reactor Regulation, NRC, to J. T. Larkins, ACRS, transmitting Draft Final NRC Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry (Predecisional Draft).
2. Draft memorandum (undated) from L. J. Callan, Executive Director for Operations, NRC, to the Commissioners, Subject: Proposed Rule on Financial Assurance Requirements for Decommissioning Nuclear Power Reactors.

3. Office of Nuclear Reactor Regulation, Excerpt from Director's Bimonthly Status Report, March 1997, on Industry Deregulation and Utility Restructuring Action Plan (NRC Internal Document).
4. Public Comments Received on draft Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry, undated.