



BACKGROUND

Office of Public Affairs

301.415.8200



www.nrc.gov ■ opa.resource@nrc.gov

Effects of Electric Utility Deregulation

Background

Traditionally, the electric utility industry in the United States has functioned as a regulated monopoly. It provided essential electrical services under an exclusive franchise in exchange for rates being closely regulated by state public utility commissions and the Federal Energy Regulatory Commission. This began to change as these commissions and FERC took actions to deregulate electric utilities. These actions were allowed under the Public Utility Regulatory Policies Act of 1978 and the Energy Policy Act of 1992.

The NRC is not normally involved in economic or rate regulation. The agency recognized, however, the need for adequate financing to support safe operations. The NRC must ensure economic pressures don't reduce safety margins at operating nuclear plants. The NRC must also ensure such pressures do not impair a licensee's ability to fully finance nuclear plant decommissioning after permanent shut down.

Discussion

Other agencies' economic regulatory processes mean the NRC has exercised limited financial oversight of electric utility licensees. For example, traditional rate-regulated electric utility licensees can bill their ratepayers to accumulate funds for decommissioning over the terms of their operating licenses. The NRC can excuse these utilities from providing additional assurance for any unfunded balance. For deregulated utilities, however, the NRC had to re-evaluate assumptions regarding assurance of access to funds for safe operation and decommissioning.

In 1995, the NRC began re-evaluating its policy on financial qualifications for operating, as well as funding assurance for decommissioning and other deregulation-related issues. In April 1996, the NRC sought additional information on electric utility restructuring and comments on additional measures to ensure adequate decommissioning funding. In September 1998, the NRC issued the final rule on decommissioning funding assurance. Among other things, this rule required nuclear power plant licensees to report to the NRC the status of their decommissioning funds at least once every two years. Also, within five years of permanently shutting down a plant, licensees are required to report this status annually.

The NRC's final policy statement on deregulation in August 1997 included (1) a discussion of safety concerns related to electric utility deregulation; (2) a discussion of the regulatory framework at that time with respect to financial qualifications, antitrust, and decommissioning funding assurance reviews for the mergers, holding companies, and other restructuring actions; and (3) a discussion of the planned approach to future reviews.

The final policy statement also addressed the NRC's responsibilities as related to state and federal rate regulators, as well as the NRC view of the responsibilities of co-owners of nuclear plants. The NRC's ongoing interaction with the National Association of Regulatory Utility Commissioners, with FERC, and with the Securities and Exchange Commission, enhances cooperation in areas where interests and responsibilities overlap.

Deregulation has prompted licensees to propose or complete complex business arrangements to sell or transfer assets. The NRC maintains a proactive role in ensuring licensees meet their obligation to report new ownership. Licensees must inform the NRC in a timely manner of any planned changes to ownership or control of licensed facilities that could affect safety or NRC safety oversight. Licensees must also state whether significant changes in the organizational and/or financial support for each plant are contemplated.

Where appropriate, the NRC seeks additional information to determine whether the rates of licensees remain regulated. The NRC requires licensees that no longer are rate-regulated to provide additional assurance that decommissioning funds will be available when needed. Deregulated licensees must also meet additional financial qualification standards.

The NRC considered licensees' legitimate needs for economic efficiency in streamlining the hearing process for license transfers and addressing other considerations in license transfers, such as foreign ownership and technical qualifications. The NRC issued a December 1998 final rule streamlining the license transfer hearing process. The NRC also revised its final Standard Review Plan on antitrust reviews, issuing a final plan on financial qualifications and decommissioning funding assurance in March 1999 (NUREG-1577, Rev. 1). The NRC issued a final plan on foreign ownership and control considerations in September 1999. The agency held a public meeting on the issue in 2013.

The NRC issued an integrated Standard Review Plan on license transfer issues in April 2000. The agency held a workshop on industry consolidation and deregulation issues in November 2001.

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