

QUESTION 3. Does the NRC have the authority to compel a licensee to generate electricity from a commercial nuclear facility if the licensee does not desire to generate electricity from the facility?

ANSWER.

The Atomic Energy Act of 1954, as amended (AEA), provides limited authority to the Commission to compel the generation of electricity by a licensee who does not desire to do so. The Commission may order the operation of any commercial nuclear facility licensed under sections 103 or 104 of the Act, subject to the payment of just compensation for any damages, during a period of Congressionally-declared state of war or national emergency pursuant to Section 108 of the AEA, 42 U.S.C. § 2138. As provided by Section 186(c) of the AEA, 42 U.S.C. 2236, the Commission may also operate a facility, the license for which has been revoked pursuant to Section 186, "in cases found by the Commission to be of extreme importance to the national defense and security or to the health and safety of the public"; just compensation for the use of such facility must be paid by the Commission. In addition, the Commission may, upon a determination that the public convenience and necessity requires, order the continued operation of a facility the license for which has been revoked, again subject to the payment of just compensation, in accordance with Section 188 of the AEA, 42 U.S.C. § 2238. None of these provisions has ever been exercised. No funds have been authorized or appropriated to pay just compensation under them.