

United States Nuclear Regulatory Commission
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No. 96-89

FOR IMMEDIATE RELEASE
(Monday, June 24, 1996)

NRC STAFF REMINDS LICENSEES OF REQUIREMENTS TO GET APPROVAL
FOR LICENSE TRANSFER, INFORM AGENCY ABOUT DECOMMISSIONING FUNDS

The Nuclear Regulatory Commission staff has reminded nuclear power plant licensees of their obligation to obtain prior written consent from the NRC for any changes that would constitute transfer of their NRC license.

The staff has further told them they should promptly report any new information concerning their financial qualifications and decommissioning funding that could have a significant implication for public health and safety.

These reminders are in an NRC administrative letter sent June 21 to all holders of nuclear power plant operating licenses or construction permits. The letter results from an NRC staff action plan launched earlier this year in response to deregulation of the electric power industry.

The administrative letter notes that increased competition resulting from deregulation may induce power companies to split their systems into functional areas, forming separate subsidiaries for electrical generation. Other possible scenarios include utility restructuring, mergers or corporate spinoffs.

NRC's concern is that licensed entities remaining after such reorganizations must have access to adequate funds for safe reactor operation and for decommissioning.

A copy of the administrative letter is attached.

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Attachment

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
WASHINGTON, D.C. 20555-0001

June 21, 1996

NRC ADMINISTRATIVE LETTER 96-02: LICENSEE RESPONSIBILITIES
RELATED TO FINANCIAL
QUALIFICATIONS

Addressees

All holders of operating licenses or construction permits for nuclear power reactors.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this administrative letter to remind addressees of their ongoing responsibility to inform, and obtain advance approval from the NRC for any changes that would constitute a transfer of the license, directly or indirectly, through transfer of control of the NRC license to any person pursuant to Section 50.80 of Title 10 of the Code of Federal Regulations (10 CFR 50.80), "Transfer of licenses." Additionally, this administrative letter reminds addressees of their responsibility to assure that information regarding licensee financial qualifications and decommissioning funding assurance that may have a significant implication for public health and safety is promptly reported to the NRC. Lastly, this administrative letter points out the desirability of providing the NRC advance notice of any plans for such changes so that staff review resources can be allocated and NRC decisions are not unnecessarily delayed. This administrative letter does not transmit or imply any new or changed requirement or staff positions. The submittal of advance notice of your planning in this area is strictly voluntary; therefore, no specific action or written response is required.

Background

The electric utility industry is entering a period of economic deregulation and restructuring which will lead to increased competition in the industry. Increasing competition may force integrated power systems to separate (or "disaggregate") their systems into functional areas. Thus, some licensees may divest electrical generation assets from transmission and distribution assets by forming separate companies or separate subsidiaries for electrical generation within larger holding companies. Disaggregation may involve utility restructuring, mergers, and corporate spinoffs that lead to changes in owners or operators of licensed power reactors and other material changes.

The NRC concern is that the remaining licensed entities have access to adequate funds, such that funds are available for safe reactor operation and decommissioning. The NRC has distinguished between an "electric utility" and other licensees in this regard. As defined in 10 CFR 50.2, an "electric utility" is an entity that generates or distributes electricity for which the costs are recovered by rates set by the entity or by a separate regulatory authority. Rate regulators allow an electric utility to recover prudently incurred costs of generating, transmitting, and distributing electric services. Corporate restructuring that changes the "electric utility" status of a power reactor licensee or otherwise alters the basis under which a licensee received an operating license for a power reactor should be brought to NRC attention in a timely fashion.

Discussion

This administrative letter reminds all power reactor licensees of their ongoing obligation to seek and obtain prior written consent from the NRC for any changes that would constitute transfer of the NRC license, directly or indirectly, through transfer of control of the license pursuant to 10 CFR 50.80 and Section 184 of the Atomic Energy Act as amended. In addition, licensees should assure that information regarding their financial qualifications and decommissioning funding assurance that may have a significant implication for public health and safety is promptly reported to the NRC.

The NRC has considered mergers, the formation of holding companies, and the outright sales of facilities, or portions of facilities, to require NRC notification and prior approval in accordance with 10 CFR 50.80 so as to ensure that the transferee is appropriately qualified. For example, the NRC determines whether the surviving organization will remain an "electric utility" as defined in 10 CFR 50.2. For sales of interests in power reactors, the NRC reviews are similar to those for mergers or formation of holding companies.

While some restructuring plans occur with little warning, many are anticipated well in advance of the desired implementation date. Licensees should consider providing advance notification of such plans to the NRC so that the staff can schedule the appropriate resources for review. Because the number of staff reviews in this area are expected to increase significantly in the future, licensees that wait until shortly before a decision is needed may find the staff unable to meet their desired schedule.

To address changes that may result from economic deregulation, the NRC issued, on April 8, 1996, an Advance Notice of Proposed Rulemaking (61 FR 15427) that seeks comment on deregulation issues as they may affect NRC decommissioning funding assurance requirements. The NRC has also developed an Action Plan that outlines additional steps the NRC intends to take to respond to

economic deregulation of its power reactor licensees. Until these actions are complete, our current regulations are governing. However, you should be aware that the NRC staff will consult with the Commission when any new or unusual restructurings alter your original licensing basis.

This administrative letter requires no specific action or written response. If you have any questions about this letter, please contact one of the persons listed below or the appropriate Office of Nuclear Reactor Regulation (NRR) project manager.

signed by

Brian K. Grimes, Acting Director
Division of Reactor Program
Management
Office of Nuclear Reactor
Regulation

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