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USNRC

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The Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attn: Rulemaking and Adjudications Staff

OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

Dear Mr. Hoyle:

I am writing to comment on the proposed rule on Financial Assurance Requirements for Decommissioning Nuclear Power Plants (RIN 3150-AF41).

I am writing because of a couple of concerns I have with the proposed rule. I agree decommissioning needs to be properly funded, and that we don't want to leave ourselves vulnerable to abandoned nuclear plants without adequate funding for decommissioning. Deregulation could increase the probability of premature shutdown and inadequate funds for decommissioning.

My main issue deals with how utility is being redefined to only include entities that receive the cost of electricity through rates established by a regulatory authority, and that such rates must be sufficient to operate, maintain and decommission its nuclear plant safely, and that only utilities who meet this definition will be allowed to use the sinking fund method of financing the decommission fund. If only a portion of these costs are covered by regulatorily set rates, the entity will only be considered an electric utility for the portion of assets covered in this manner. My concerns are

1) Does this mean if the entity recovers decommissioning costs through rates or regulatory fees, but covers operation and maintenance costs through market sales, that it is considered an electric utility for decommissioning purposes or only part of an electric utility? If only part of an electric utility, will the entity need to use a means other than a sinking fund for a part of decommissioning funding even though it is collecting decommissioning costs through fees or rates? If decommissioning costs are being recovered by a regulatorily set rate or fee, the entity should be considered a utility for decommissioning funding purposes.

2) If the collection of decommissioning funds is fixed, but the cost estimate or earnings rate fluctuates, will a proportional part of decommissioning funding need to be covered by other than a sinking fund if the analysis in any way shows the collection will not be adequate?

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This would be very complicated and contrary to the philosophy of collecting at least the majority of the cost in a fund over the years and then performing more detailed analysis to address any additional needs as plant permanent shutdown approaches.

3) I believe that if there is reasonable assurance that all or most of decommissioning costs will continue to be collected, a licensee should be able to use the sinking fund decommissioning funding method. Other methods add significant costs to funding. Those costs, especially if unnecessary, will serve to drive the price of nuclear power ever higher and possibly lead to permanent closure. Premature closures are contrary to the purpose of decommissioning funding regulations, since plants that are prematurely closed typically don't have adequate decommissioning funds. Premature closures are also wasteful and will lead to increased carbon dioxide emissions from substitute power.

My second issue deals with the specific wording used to allow a licensee to take credit for earnings on prepaid decommissioning trust funds and external sinking funds using a 2 percent annual real rate of return from the time of the funds' collection through the decommissioning period (the licensee's rate-setting authority does not authorize the use of another rate). I agree with the NRC's proposed allowance for fund earnings from time of collection through decommissioning, however I believe that a licensee should be able to take credit for actual earnings for current and past years since collection, and up to 2% (with the given exception) for future years predicted earnings. Let me provide two examples to explain what I mean by this comment.

1) If a utility has been earning an average 10% income, in predicting future collection needs, they should be able to use their current fund amounts (including funds deposited and 10% income) in predicting future needs. The future needs prediction should include any future deposits plus up to 2% real rate of return.

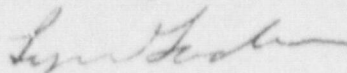
2) If the utility only wants to use a 1% real rate of return, it should have that choice rather than be limited to 2% or nothing based on the current proposed wording, unless the rate-setting authority authorizes something else.

The latter example concern can be handled by adding "up to" or "maximum" before "2 percent". The first example concern may be able to be handled by adding "future" and deleting "the" before "funds' collection".

I also received draft comments from NEI and agree in general with these comments.

I hope these comments will be useful in formulating a final rule that will help ensure adequate decommissioning funding without being excessively burdensome and without contributing to prematurely shutdown nuclear plants.

Sincerely

A handwritten signature in cursive script, appearing to read "Lynne Goodman".

Lynne Goodman