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Secretary
 U.S. Nuclear Regulatory Commission
 Washington, DC 20555-0001
 ATTN: Rulemaking and Adjudications Staff

OFFICE OF SECRETARY
 RULEMAKINGS AND
 ADJUDICATIONS STAFF

RE: Proposed Rule – 10 CFR Part 50, Financial Information for Applications to Renew or Extend the Term of an Operating License for a Power Reactor

To Whom It May Concern:

Public Citizen is extremely concerned that the NRC is proposing to remove the requirement that non-electric utility power reactor licensees submit financial qualifications information as part of their license renewal applications. We feel that such action only further weakens the NRC's already negligible and weak regulatory power, and we are opposed to this rulemaking proposal. We insist that the NRC take the exact opposite approach from that which it is currently proposing, and apply deep and thoroughgoing regulatory oversight to every aspect of the commercial nuclear power industry.

In light of the recent scandals surrounding corporate finance and accounting, it is particularly appalling that the NRC, in an effort to make it even easier for nuclear power plants licensees to renew their licenses, is suggesting that there should be less oversight of a licensee's finances. Once again, the NRC is making the regulatory process look more like a subsidized promotional campaign for nuclear power. After the many corporate accounting debacles that have been revealed in the last year – Enron, WorldCom, Global Crossing, Duke Energy, Dynegy, and Reliant Energy, to name a few - it seems a particularly poor time to suggest that the NRC have LESS formal financial oversight, and that any financial "regulatory burden" be eased in this way.

Following the recent wave of corporate accounting scandals, Congress has finally acknowledged the need for more stringent requirements around corporate accounting and finances (see attached testimony). It is completely incongruous that the NRC would simultaneously be proposing to reduce financial review requirements. The agency shows itself to be dangerously out of step with current events in referring to financial accountability as "undue regulatory burden."

The NRC's own language in the Federal Register notice on June 4, 2002, is indicative of a regulatory agency that is captured by the very industry it is charged with regulating. In the background information of said notice, the NRC defends its proposal to eliminate a formal oversight mechanism by ceasing to perform case-by-case findings of financial qualifications for licensees: "Such a case-by-case determination would be resource-intensive and may result in delays in approving renewal applications" for licensees. To an outside observer this could give the impression that it is the NRC's duty to APPROVE

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renewal applications, rather than to REVIEW and ANALYZE them, before accepting or rejecting them based on strict standards, requirements and criteria. While the NRC's record of approving nuclear power reactor license renewal applications indicates that license renewal is simply a rubber-stamping formality, we feel that it should be a truly rigorous process – one in which the health and safety of workers and citizens is of the utmost priority, along with environmental concerns.

Consider recent events at the Davis-Besse reactor, wherein a gaping hole was found in the reactor vessel head that threatened to breach the reactor containment. The licensee successfully goaded the NRC to agree to a “compromise” shut-down date – despite NRC regulations which stipulate that the reactor should have been shut down immediately upon discovery of the problem - which was clearly in the licensee's favor, saving it millions of dollars, but endangering the public for that much more additional time.

Another current operational safety issue at reactors is cracking of the reactor pressure vessel head penetration nozzles in pressurized water reactors (PWRs). If these should fail, the results could be disastrous.

With both problems, age can be a factor. The more time that elapses at a plant, the more potential for danger, and the more expensive repairs can be. Licensees, in order to maximize profits (or minimize losses), want to minimize the amount of time their reactors are shut down (off-line) for refueling, repairs, inspections, etc. – all crucial moments for safety procedures. This creates a conflict between the bottom line and the safety of the plant. If a licensee company has a poor financial status, the temptation to postpone inspections or repairs may increase, as such postponements can keep a plant running (or running at full, rather than reduced, capacity), and keep the money coming in. License renewal is the NRC's blessing for a reactor to increase its lifespan an additional 50%. License renewal is also a last-ditch effort for a licensee to attempt to wring some (or further) profit from their reactors. The NRC as a regulator should not be encouraging, through weakened regulations, the extension of licenses for aging nuclear power plants. Contrary to the NRC's assertions, the license renewal application is a perfect time to review a licensee's financial qualifications.

Well before the financial fallout from energy deregulation came into spectacular relief with Enron's implosion, the NRC was warning that deregulation could require more NRC oversight of a nuclear plant operators' financial health, not less.

In an October 1998 document (NUREG/CR-6617), the NRC evaluated the overall safety and economic situation of its licensees to be one in which they did not expect to receive a flurry of further applications for license renewals.

"The NRC's safety and public health concerns about deregulation and restructuring lie in the areas of adequacy of decommissioning funds and the potential effect that economic deregulation may have on operational safety... NRC safety assessments at some reactor facilities have identified deficiencies that may stem from the economic pressure on a

licensee to be a low-cost energy producer, which in turn may limit the resources available for corrective actions and plant maintenance. The NRC is developing a measure that could help to identify plants where economic stress may be adversely impacting safety." (NUREG/CR-6617, footnote No. 69, p. 29.)

The impacts of electricity market deregulation were so pronounced, the NRC anticipated that economic pressures "would accelerate the closure of some nuclear power reactors." Ibid, p. 29.

It is hard to fathom that the NRC now considers the corporate entities involved to be so stable, and the outlook for reactor licensees so promising, that they do not feel the need to do financial reviews during the license renewal application process.

Deregulation of the electricity market has raised the specter of nuclear power plants being owned by thinly financed merchant operators. The NRC must strictly regulate these new licensees, particularly before such a major decision as relicensing, to ensure that they are able to meet their financial obligations.

Furthermore, the U.S. General Accounting Office, in a December 2001 report (GAO 02-48), found that during the financial review process that occurred while Commonwealth Edison and PECO merged to become Exelon, the "new owner did not submit and NRC did not request additional guarantees" of financial stability. The report went on to point out that "[I]n addition, NRC did not validate the information submitted by the new owner to demonstrate that the company was financially qualified to own and operate the largest fleet of nuclear plants in the United States." While such a casual, trusting acceptance of industry-provided information is always troubling, it is even more disturbing that the NRC is seeking to perform more regulatory rollback in a post-Enron, post-9/11 world. The GAO report also states that "NRC eventually transferred the licenses to Exelon Generation Company on the basis of projected financial information that both the affected companies and NRC knew to be inaccurate." Anyone who has casually perused the news in the last year knows that using financial information that is known to be inaccurate has led to a host of problems for corporate America this year. The NRC should not follow the dishonest lead of its licensees in this regard.

On the topic of casual perusal of the news, we are also opposed to NRC's "informal screening of financial and nuclear industry trade press and other information sources" to monitor the financial health of reactor licensees. The NRC needs to establish a much more rigorous financial monitoring system, one in which account books must be opened to NRC review, and the NRC will KNOW what is happening to/in a corporation BEFORE it is printed in the news. Due to the unique nature and dangers of nuclear power, it is not enough for the NRC to find out in this "informal" manner what the financial health of a licensee is. Additionally, the NRC should establish regular schedules, on an annual basis to review the financial qualifications of nuclear power reactor licensees. It should not be done only at a few select times, or on an ad-hoc basis. The conflict between the concealment of financial problems and the safe operation of a

commercial nuclear power reactor poses risks that are far too great to deal with in such a casual manner as the NRC proposes.

Relicensing reactors owned by non-utility operators with dubious financial standing undermines the already inadequate public protection afforded by the Price-Anderson Act in the case of a severe nuclear accident. Unlike traditional nuclear power plant operators, non-utility licensees cannot adjust electricity rates to make up for financial shortfalls. If a licensee were therefore unable to meet its Price-Anderson obligations following a severe accident at one or more U.S. nuclear power plant, the pooled funds available for compensation and clean-up would be diminished, leaving the public on the hook both as victims and taxpayers.

For these reasons – which are not necessarily comprehensive - we are opposed to the proposed rule, cited above.

Respectfully,

David Ritter
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Public Citizen's Critical Mass Energy and Environment Program

Attachment: http://www.citizen.org/_corpcrime/overview/articles.cfm?ID=8076