



Post-closure liabilities: EU regulatory trends

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Policy context

- EU:UK political & legal duality
- Aim of single internal energy market
- General presumption against state aid
- Emerging aim of a 'common energy policy'
- Key policy goals: economic, environmental
- External relations: fuel; proliferation

- Therefore a greater attention to energy, including a greater scrutiny of nuclear

But don't hold your breath ...

- Commission 2nd Annual Report on Decommissioning Funds - DELAYED
- Commission Recommendation on Decommissioning Funds - DELAYED

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European Commission

- Fulfilling a commitment made as part of a compromise with EP and Council in 2003, as part of the new Electricity Directive;
- AR1 published October 2004
- EP reviewed this in 2005 (see next)
- AR2 delayed by “uncooperative MS”
- New more in-depth survey now launched

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European Parliament

Resolution on Harms Report, 16 November 2005 (T6-05-0432)

- “Considers it necessary to ensure that in all Member States all nuclear undertakings have sufficient financial resources available when needed to cover all the costs of decommissioning, including waste management in order to uphold the polluter pays principle and avoid any recourse to State aid;
- “Considers it necessary for these financial resources to be managed and used with maximum transparency, and for external auditing to be guaranteed;
- “Questions whether the accounting provisions made so far in a number of Member States and the corresponding financial resources are equal to the real needs;

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Council of Ministers

- Established Working Group Dec '04
- Linked to 'the nuclear package'
- Two year work plan; now half-way
- The Council conclusions and the Commission survey will coincide at end of 2006, with potentially a Commission legislative proposal adopted in 2007.
- Response to Recommendation is key!

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Case studies

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British Energy

- Crashed in '02; 2.5 yrs restructuring
- Most back-end costs assumed by UK
- (Reluctant) Commission approval '04
- Total public aid = £3483M
- Duration: beyond 2100!
- At least £274M paid so far
- On-going regular transfers to BNFL-NDA

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BNFL-NDA

- 1971: BNFL spun off from UKAEA
- 1999: PPP mooted but then dropped
- 2001: "Technically bankrupt" (& still is)
- Latest total liabilities c. £48bn (exc. Pu)
- Unreliable plants, e.g. THORP & SMP
- EC approval for restructuring outstanding

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Slovenské Elektrárne

- Part-privatisation: ENEL, 66%, €840M
- Includes 4 NPPs
- 'Liquidation' Fund lacks resources
- State aid proposed to fix this (supply levy)
- NGO complaint delays sale completion
- EC still awaits notification
- ENEL will not commit to 2 new units

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Some key factors ...

- More state aid cases
- National vetoes e.g. AT, DK, IR
- Architecture of post-2012 regime
- Exclusivity of ETS
- Personalities

Conclusions

- Harmonisation of EU laws on post-closure finance is gaining momentum, in line with improved market regulation;
- Therefore, to a much greater extent, the costs and risks of nuclear will be born by undertakings and not states;
- Ring-fenced provisioning for liabilities will also mean that assumptions (e.g. about 'disposal') are tested more rigorously;
- EU legislation is likely; watch this space!

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“We need to know the present before we can plan the future.”

Paul Rübiger MEP, EPP-ED ITRE Co-ordinator, 20 June 2005

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