

THE NUCLEAR PROVISIONS COMMISSION

The 2003 Act which turned SYNATOM into a nuclear provisioning company created a Nuclear Provisions Commission. The Act of 12 July 2022 further strengthened the role of this Commission, with the power to provide advice and control over the existence, adequacy and availability of provisions.

The Act of 26 April 2024 defined the Nuclear Provisions Commission as the Commission that provides advice and oversight of provisions created for dismantling of nuclear power plants and for the management of spent fuel and operational waste.

The Nuclear Provisions Commission is comprised of at least the following six persons

- the Administrator-General of the Treasury Administration,
- the President of the Management Committee of the Commission for Electricity and Gas Regulation (CREG),
- the Director General of the Budget and Policy Evaluation Department of the Federal Public Service Strategy and Support,
- a representative of the National Bank of Belgium,
- the Director General of the Directorate General of Energy of the Federal Public Service of Economy,
- a representative of the Financial Services and Markets Authority.

Following the proposal of the Minister responsible for Energy, two additional persons may be appointed as members for a renewable period of five years, by a Royal Decree deliberated in the Council of Ministers. The Director General of the Federal Agency for Nuclear Control (AFCN) and the Director General of the National Agency for Radioactive Waste and Enriched Fissile Materials, ONDRAF, may attend NPC meetings with an advisory vote.

Where this is relevant for certain items on the agenda, the Nuclear Provisions Commission may invite the Managing Director of SYNATOM or of any nuclear operator, to attend all or part of a meeting of the Commission. Following an invitation from the Nuclear Provisions Commission, the two representatives of the Federal Government sitting on the Board of Directors of SYNATOM may attend all or part of the latter's meetings in order to report on information of which they are aware and likely to have a material impact on the existence, adequacy or availability of nuclear provisions, when they consider it appropriate or when the general interest so requires.

The Nuclear Provisions Commission will issue opinions on the following topics:

- The methods for creating the provisions. It also periodically assesses the appropriateness of these methods.

The Commission oversees:

- The correct application of the methods for creating the provisions,
- The funds' availability.

The Nuclear Provisions Commission has the power to provide advice and exercise general oversight, particularly with regard to:

- In general, the creation, management, existence, adequacy and availability of the nuclear provisions as well as payments for the costs of dismantling the nuclear power plants, the costs associated with spent fuel management and with managing operational waste.
- The information provided by SYNATOM and other stakeholders.
- The creation, management, existence, adequacy and availability of assets representing the nuclear provisions.
- The methods for calculating and creating the nuclear provisions. It also assesses their use and, periodically, their appropriateness.
- Compliance by the nuclear provisioning company, by any nuclear operator or any contributing company, with the obligations incumbent on them pursuant to this legislation or the loan agreements entered into or the guarantees provided.
- The conditions under which SYNATOM provides its funds.
- The categories of assets in which SYNATOM invests the portion of provisions not provided to nuclear operators.

Triennial revision

Under the applicable legal framework, the Nuclear Provisions Commission conducts an audit of the application and adequacy of the calculation methods used to establish nuclear provisions in consultation with SYNATOM and, for the part of the nuclear provisions covering dismantling costs, with the nuclear operators.

Every three years, SYNATOM enters in a revision process to assess the nuclear provisions created for the dismantling of power plants and for the management of spent fuel.

1. To this end, SYNATOM submits a substantial technical and financial file to the Nuclear Provisions Commission outlining a proposal for revising the method for creating the nuclear provisions with at least the following elements: a scenario for the dismantling of the nuclear power plants, for the management of spent fuel and for the management of operational waste (after closing).

2. A detailed estimate of the costs involved, as well as a timing for the expected expenses.

3. A calculation method for creating the nuclear provisions, using discount and capitalization rates in line with established financial analysis methods.

In their proposals, SYNATOM and nuclear operators take into account technological developments and alternative solutions in Belgium and abroad, as well as their costs.

The last triennial revision of nuclear provisions took place in 2022. The next exercise should be completed by the end of 2025.

The consequences of the agreement between ENGIE and the Belgian Government

The Phoenix Agreements were concluded on 13 December 2023 between the ENGIE Group and the Belgian Government and were translated into 4 legal acts on 26 April 2024 and some royal decrees. Most of the legal provisions will apply after the Closing of the transaction, which is expected at the end of 2024.

Act of 26 April 2024 amending the Act of 31 January 2003 on the gradual phase-out of nuclear energy for the purposes of industrial electricity production.

Act of 26 April 2024 regarding the creation, organization and operation of a public law body (HEDERA) with the aim of assuming financial responsibility for certain nuclear obligations.

Act of 26 April 2024 regarding the security of supply in the field of energy and reforming the nuclear energy sector.

Act of 26 April 2024 regarding the creation, organization and operation of the administrative service for autonomous accounting, called BE-WATT and various provisions relating to the exchange of information.

This new legal framework provides, among other things, a fixed amount of 15 billion euros as final settlement for future costs related to the treatment of nuclear waste from ENGIE's nuclear facilities in Belgium. A first instalment of 11.5 billion euros will be made by SYNATOM to HEDERA, which was set up by the Belgian Government to manage the financial assets related to nuclear waste. An additional payment of EUR 3.5 billion will be made at the time of the LTO Restart.

Under the new legal framework, SYNATOM will essentially retain responsibility for the on-site storage of spent fuel assemblies until the end of dismantling operations and at the latest until 2050, as well as for ensuring their compliance with the contractual criteria for the transfer of waste to the National Agency for Radioactive Waste and Enriched Fissile Materials. The activities related to managing spent fuel after its transfer to ONDRAF will then be the responsibility of the Belgian State.

SYNATOM also remains responsible for providing financial coverage regarding the works in the Post Operational Phase of the reactors, at the end of their operating life, as well as their dismantling and remediation of the site. The process of creating and managing all of these provisions will continue to be subject to revision by the Nuclear Provisions Commission every three years.

The 10-year extension of the Doel 4 and Tihange 3 units will also have a direct financial impact on the dismantling provisions. After all, as each site will still have an operational reactor, this cancels out the initially planned optimization effects associated with serial dismantling.

NUCLEAR TAX

The distribution contribution - also known as the nuclear tax - is an annual tax calculated according to a methodology established by the Commission for Electricity and Gas Regulation (CREG) for the period 2020-2026. As part of its public service obligation, SYNATOM is responsible for advancing the distribution contribution to the State. This contribution is then billed to the owners of the nuclear reactors in proportion to their respective shares in electricity production.

This contribution varies from year to year, depending on the profits made from nuclear power generation at the Doel 3 and 4, and Tihange 2 and 3 reactors. The Doel 1, Doel 2 and Tihange 1 reactors are covered by specific agreements between the owners of the reactors concerned and the Belgian State.