

W. H. REAVES & COMPANY
INVESTMENT MANAGEMENT

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PROPOSED RULE **PR 50**
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OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

July 24, 2001

Ms. Annette Vietti-Cook
Secretary
US Nuclear Regulatory Commission
11555 Rockville Pike
Mail Stop 016C1
Rockville, MD 20852

Re: Proposed Rule on Nuclear Decommissioning Trust Fund Provisions

Dear Ms. Vietti-Cook:

Attached are the comments of W. H. Reaves & Company on the proposed revisions to Draft Regulatory Guide 1.159, Rev.1.

W. H. Reaves is a registered investment advisor and provides investment management for nuclear decommissioning trust assets invested in common stock equities.

We would be pleased to discuss these comments and to provide additional information or respond to any questions the NRC may have. If you have any questions concerning our comments, please contact the undersigned at (201) 332-4596.

Very truly yours,



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SECY-02

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Comments by W. H. Reaves & Company on Proposed Rule on Decommissioning Trust Provisions issued by Nuclear Regulatory Commission: NRC Proposed Rule, 10 CFR Part 50, Decommissioning Trust Provisions (66 Fed. Reg. 29244, May 30, 2001)

W. H. Reaves & Company is a registered investment advisor under the Investment Advisers Act of 1940. The firm is 40 years old and has managed corporate pension and other corporate funds for the past 23 plus years and nuclear decommissioning funds since 1994.

W. H. Reaves is a specialty fund manager with over one billion dollars under management. The firm specializes exclusively in investing in public utility and energy common stocks. Investment in nuclear utilities sometimes represent up to 25% of the firm's portfolios.

Our comments are limited to paragraph C.2.2.3.3 of the Draft Regulatory Guide DG-1106 (Proposed Revision 1 of Regulatory Guide 1.159) quoted below for convenience.

C.2.2.3.3 The trust agreement must prohibit investment in securities of other power reactor licensees or any entity owning or operating one or more nuclear power plants, except for investments tied to market indices or investments in non-nuclear mutual funds.

Strict reading of this proposed provision would seem to preclude us from using any nuclear utilities in our NDT portfolios. From various conferences we understand the NRC's desire is to ensure that NDT trust funds invested in equities are diversified. We strongly support diversification of all portfolios, especially those of NDT trust funds. We encourage our clients and potential clients to widely diversify and this effort at wider diversification has enabled us to attract some NDT clients. We have less than 10% of the client's NDT assets and it would be unusual if we had more than 10% of any client's trust assets. If you assume we have 25% of our portfolio in nuclear utilities this means 2.5% or less of the client's NDT assets are directly invested in nuclear utilities.

NDT assets	<u>100%</u>
Assigned to W. H. Reaves	<u>10%</u>
Invested in Nuclear Utilities	<u>2.5%</u>

We strongly urge you to revise this provision to permit some direct investments in nuclear utilities. To avoid confusion we would suggest some measurement limit such as 8-10% of total trust assets. Thus the proposed rule could read as follows:

C.2.2.3.3 The trust agreement must ~~prohibit~~ limit direct investments in securities of other power reactor licensees or any entity owning or operating one or more nuclear power plants, to 10% or less of trust assets, except for investments tied to market indices or investments in non-nuclear mutual funds.

Why ten percent? This is not a magic number and a five or six per cent limitation would probably provide the licensee reasonable diversification opportunities. We suggest up to 10% of trust assets to afford the licensee some additional flexibility in the event markets and opportunities develop to justify a higher percentage of trust assets in nuclear utilities. Under normal circumstances direct investments in nuclear utilities would not exceed five or six percent of trust assets but these rules once adapted are likely to remain in effect for a long time. For this reason some additional flexibility may be appropriate.

Adoption of the rule as proposed would not only unfairly damage the business of W. H. Reaves & Company but more importantly would deprive owners of nuclear power plants of a significant investment area for diversification of nuclear decommissioning trust funds. W. H. Reaves NDT portfolios are conservative and low risk (relative to other market indices) and have outperformed the S&P 500 since inception in 1994 and 1995.