

(20)

DOCKET NUMBER
 PROPOSED RULE PR 50
 (66 FR 29244)

DOCKETED
 USNRC

August 13, 2001

01 AUG 15 P4:59

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OFFICE OF SECRETARY
 RULEMAKINGS AND
 ADJUDICATIONS STAFF

Rulemakings and Adjudications Staff
 U. S. Nuclear Regulatory Commission
 Washington, DC 20555-0001

Re: NRC Proposed Rule, 10 CFR Part 50, Decommissioning Trust Provisions
 (66 Federal Register 29244, May 30, 2001)

Dear Sirs:

In regards to the proposed changes to the decommissioning trust provisions referenced above, Union Electric Company (UE), the licensee of the Callaway nuclear power plant, would like to submit the following comments:

1. The "Background" and "Discussion" sections of the referenced Federal Register publication indicate that, until recently, the NRC did not feel their involvement in the terms and conditions of trust agreements was necessary as state regulators and the Federal Energy Regulatory Commission (FERC) were exercising the required degree of control. The basis for this proposed rulemaking is that, as deregulation becomes more prevalent, fewer decommissioning trust funds will fall under the purview of these regulatory bodies and consequently formal controls may no longer exist for these trusts.

UE agrees with the NRC that this could be an area for concern; but, would like to propose that the additional NRC oversight proposed in this rulemaking only be required in those cases where there is no longer any state or federal regulatory authority over the decommissioning trust. For example, at the current time, the Missouri Public Service Commission, the Illinois Commerce Commission and the FERC all have regulatory oversight over UE's decommissioning trust. If the proposed rule is adopted, the NRC oversight will be an additional layer of review and approval that will have to be negotiated. As these additional layers of regulatory burden are added, the potential for conflicting and ambiguous requirements increases.

2. The proposed rule indicates that trust agreements cannot be amended in "any material respect" without 30-days prior written notification to the NRC. And, there must be no objection from the NRC within the notice period.

If this requirement is adopted, UE would request that the NRC more clearly and

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specifically define what changes would be considered “material”. This is a broad and ambiguous term that could easily be interpreted many ways. Under this wording, most licensees will probably submit any and all amendments to the NRC just to be safe. This would seem likely to be burdensome to the NRC and unlikely to add any value. If what constitutes a “material change” could be clearly defined, a great deal of wasted time and unnecessary review effort could probably be avoided.

Secondly, UE would suggest that the NRC be required to “close the loop” and notify licensees if there are no objections to proposed trust agreement amendments. This would eliminate any misunderstandings resulting from misdirected mail or other failure to receive objections from the NRC.

3. Finally, UE has concerns regarding the proposed rule’s prohibition against licensee’s involvement in the management of the trust fund. The proposed rule states:

“The person directing the investment of the funds is prohibited from engaging licensee or its affiliates or subsidiaries as investment manager for the funds or from accepting day-to-day management direction of the funds’ investments or direction on individual investments by the funds from the licensee or its affiliates or subsidiaries.”

UE is concerned that this could be strictly interpreted such that licensees would be unreasonably restricted from providing necessary and prudent investment direction to their investment managers and / or trustees. UE is currently in the process of revising the “Investment Guidelines” applicable to its decommissioning trust fund and has developed the following wording that it intends to incorporate in the guidelines to better clarify this restriction:

“Day-to-day management of the trust funds shall be the responsibility of investment managers selected by UE. Neither UE nor its subsidiaries, affiliates or associates may serve as investment manager or otherwise engage in day-to-day management of the fund or mandate individual investment decisions. The investment managers shall be responsible for the selection of specific securities to invest in. UE shall not direct any investment manager to invest in any specific, individual securities; however, UE does retain the right to instruct investment managers to not invest in certain securities, as it deems appropriate.”

“UE shall be responsible for establishing and implementing general, overall investment policies and practices; including, but not necessarily limited to:

- 1) The selection of investment managers, advisors, consultants, etc.;
- 2) The selection of allowable asset categories;
- 3) The specification of asset allocations between asset categories;
- 4) The specification of asset allocations between investment managers;
- 5) Directing contributions to selected asset categories / investment managers and directing reallocations between asset categories / investment managers.”

“The overall investment policies established by UE shall be set forth in these written investment guidelines. These investment guidelines shall be reviewed and approved, as required, by all applicable federal and state regulatory authorities in accordance with all federal and state laws and with all orders issued by such applicable federal or state regulatory authorities.”

"All instructions from UE to any other parties necessary to implement the overall investment policies and practices established by these investment guidelines shall likewise be in accordance with said guidelines and with all federal and state laws and with all orders issued by applicable federal or state regulatory authorities."

UE would like to suggest that the NRC likewise more specifically define the "day-to-day management" activities that are prohibited, or else eliminate this prohibition entirely and allow licensees to prudently determine the level of their involvement necessary to adequately administer their decommissioning trust.

Thank you for your attention to the foregoing comments. Should you like to discuss any of them in more detail, please feel free to contact me at (314) 554-3836.

Sincerely,

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Financial Specialist,
Financial Planning & Investments

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