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**CALIFORNIA MUNICIPAL  
 UTILITIES ASSOCIATION**

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 United States Nuclear Regulatory Commission  
 Washington, D.C. 20555-0001

**Attention: Rulemaking and Adjudication Staff**

**Re: Decommissioning Trust Provisions; Proposed Amendments to  
 Regulations, 10 C.F.R. Part 50 (May 23, 2001)**

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Ladies and Gentlemen:

The California Municipal Utilities Association ("CMUA") respectfully submits the following comments on the proposed amendments ("Amendments") to the U.S. Nuclear Regulatory Commission's ("Commission") regulations relating to decommissioning trust funds for nuclear power plants established pursuant to 10 CFR § 50.75(e) ("Decommissioning Trusts").

CMUA is a statewide organization of local public agencies in California that provide water, gas, and electricity service to California consumers. CMUA electric utility membership includes 28 electric distribution systems, a metropolitan water district, and three large joint powers agencies. CMUA membership also includes the City and County of San Francisco, which is not a distribution system, but provides public power pursuant to federal statute. In total, CMUA members provide electricity to approximately 25-30 percent of the population in California. Certain CMUA members have direct or indirect ownership interests in nuclear generating facilities, including the City of Los Angeles Department of Water and Power, the Sacramento Municipal Utility District, and members of the Southern California Public Power Authority.

CMUA understands the Commission's concern that the Decommission Trust corpus be safeguarded from investment risks. CMUA agrees. However, the Commission's regulations must recognize and accommodate circumstances when current law already provides sufficient safeguards. In this regard, public fund investment by CMUA members is strictly limited by California law. CMUA is concerned that the application of the proposed rules, specifically 10 CFR § 50.75 (h)(1)(i)(D) ("Subparagraph

An organization for the protection of municipally owned utilities.

C.M.U.A. members provide utility service to more than 70% of the people of California.

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D”) to its members will add costs, reduce accountability, and is unnecessary to achieve the stated purposes of the Amendments.

The Supplementary Information relating to the Amendments indicates that the purpose of the Amendments is to increase assurance that an adequate amount of decommissioning funds will be available for their intended purposes in light of the potential loss of stringent accounting and financial control of owners of nuclear generating plants by state public utility commissions (“PUC”), due to the deregulation of the electric utility industry. In addition, the Commission believes the general limitations on investments contained in trust law do not provide sufficient specific guidance as to permitted investments to replace State PUC control. The Amendments are thus premised on the proposition that deregulation will remove existing accounting and financial controls on owners of nuclear power plants.

This presumption simply is not applicable to CMUA members, who operate under the same regulatory and legal restrictions that applied prior to the changes to the electric utility industry in California. CMUA members are public agencies, and are bound by the same stringent restrictions on investments of public funds, including public funds deposited in Decommissioning Trusts. This situation has not changed as a result of the deregulation of the electric industry.

In its discussion of the purposes of the Amendments, the Commission notes the necessity to insure that special care is taken to safeguard the trust corpus from investment risks. California law has the same objective. In this regard, the California statute regarding investment goals found in Section 53600.5 of the California Government Code provides that the primary objective shall be to safeguard the principal of the funds. As with all investments of public funds, the permitted investments for such public funds is strictly limited by State law designed to protect the availability of such funds. Section 53601 of the California Government Code contains a specific list of permitted investments, including funds deposited in Decommissioning Trusts.

Due to existing stringent restrictions on the investment of public funds by governmental entities in California law, a limited exemption from Subparagraph D is warranted for governmental agencies directing investment of Decommissioning Trusts where such investments are permitted investments of public funds under applicable State law. At a minimum, CMUA urges the Commission to provide flexible enforcement of this provision, and provide procedures for waiver or exceptions on a case-by-case basis.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald Jordan", with a long horizontal flourish extending to the right.

Gerald Jordan  
Executive Director  
California Municipal Utilities Association