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**DOCKET NUMBER  
PROPOSED RULE** ~~PR 50~~  
**(66FR 29244)**

102-04597-SAB/TNW/GAM  
August 10, 2001

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

Dear Sirs:

**Subject:** Palo Verde Nuclear Generating Station (PVNGS)  
Units 1, 2, and 3  
Docket Nos. STN 50-528/529/530  
Comments on Proposed Rule Relating to Decommissioning Trust  
Provisions for Nuclear Plants

OFFICE OF STRATEGIC  
RULINGMAKINGS AND  
ADJUDICATIONS STAFF  
DOCKETED  
USNRC  
.01 AUG 17 P 2 :46

In the May 30, 2001 *Federal Register* (66 FR 29244), the NRC requested public comments on proposed rule changes to 10 CFR 50.75, "Reporting and Recordkeeping for Decommissioning Planning." On behalf of itself and the licensees participating in the Strategic Teaming and Resource Sharing (STARS) alliance, Arizona Public Service Company (APS) is submitting comments on the proposed rule. The STARS group consists of the five plants operated by TXU Electric, AmerenUE, Wolf Creek Nuclear Operating Corporation, Pacific Gas and Electric Company and STP Nuclear Operating Company.

In general, we support the NRC's desire to provide additional enhancements for assuring decommissioning funding at nuclear power plants. We have reviewed comments prepared by the Nuclear Energy Institute (NEI) on the proposed rule and we endorse NEI's comments and request that the NRC consider them. In addition, we offer the following comments for the NRC's consideration.

1. The proposed rule states that "the trust agreement cannot be amended in any material respect without 30 days prior written notification to the NRC, and there is no objection from the NRC within the notice period." We suggest that the NRC define what is meant by "amended in any material respect" and give examples as guidance for licensees. In addition, we suggest that it be clarified as to whether or not licensees will receive a notice from the NRC prior to the end of the 30-day period that the NRC has no objections.
2. We suggest that the NRC clarify what actions licensees must take with regard to existing trust agreements, and by when, if the proposed rule becomes final.

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SECY-02

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3. The proposed rule states that the person directing the investments of the funds is prohibited from accepting "day-to-day management direction of the fund's investments or direction on individual investments by the funds from the licensee or its affiliates or subsidiaries." This prohibition appears overly broad. Licensees should be allowed to give some direction to fund managers when it comes to the licensee's decommissioning fund. We suggest that this prohibition be eliminated, or, if the NRC has examples where licensees who have outside fund managers have engaged in "day-to-day management" of the fund in a detrimental way, this prohibition should be better defined.
4. It is not clear if the NRC plans to continue to put decommissioning funding conditions in individual licenses if the proposed rule becomes final. If the NRC intends to continue to impose decommissioning funding conditions in individual licenses, there would be no need for the rule.
5. We agree with the NRC's statement in the proposed rule that it would not be feasible or desirable for the NRC to change its overall approach to assuring adequate funding for decommissioning by specifying mandatory wording in NRC regulations for the entire decommissioning trust fund.
6. We suggest that the NRC consider the need for conforming changes to 10 CFR 72.30, "Financial assurance and recordkeeping for decommissioning." The 10 CFR 72.30(c) and (d) regulations apply to Part 50 power plant licensees who store spent fuel in an Independent Spent Fuel Storage Installation (ISFSI) under either a Part 72 specific license or general license. Consistency between the Part 50 and Part 72 decommissioning funding requirements for power plant licensees would be beneficial to both the NRC for enforcement purposes and licensees for compliance purposes.

No commitments are being made to the NRC by this letter.

Should you have any questions, please contact Scott A. Bauer at (623) 393-5978.

Sincerely,



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cc: E. W. Merschoff  
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