

28

DOCKET NUMBER
PROPOSED RULE PR 50
(66 FR 29244)

DOCKETED
USNRC

Additional Comment on Proposed Rule 10 CFR 50.75, "Decommissioning Trust Provisions," and Accompanying Draft Regulatory Guide (RG) 1.159, Revision 1 (DG-1106)" (66 FR 29244) AUG 17 P 4:08

This e-mail follows up on Portland General Electric Company (PGE) letter VPN-0302001, "Comments on Proposed Rule 10 CFR 50.75, "Decommissioning Trust Provisions," and Accompanying Draft Regulatory Guide (RG) 1.159, Revision 1 (DG-1106)," dated August 13, 2001. PGE's August 13, 2001, comment letter forwarded PGE's comments on the subject proposed rulemaking and accompanying draft guidance document (66 FR 29244 dated May 30, 2001) to the Nuclear Regulatory Commission (NRC), and also endorsed comments that the Nuclear Energy Institute (NEI) submitted to the NRC on August 13, 2001. As stated in PGE's comment letter, PGE's comments were in addition to and supplemented NEI's comments.

SECRETARY
REGULATIONS AND
ADMINISTRATIVE STAFF

Due to the potential adverse impacts of a specific issue addressed by one of NEI's comments, PGE would like to emphasize, expound upon, and provide additional support for the NEI comment, and strongly request that the NRC incorporate the NEI comment. PGE recognizes that the cutoff date for the receipt of comments on this proposed rulemaking was August 13, 2001. However, as this e-mail supports and expounds on NEI's comment that was submitted by the August 13, 2001, cutoff date, PGE requests consideration of this additional comment if the NRC finds it practical to do so.

The specific comment for which PGE is submitting this special support is on Page 15 of NEI's August 13, 2001, comment letter, Comment 4.e, "Clarification Regarding Use of Funds for Spent fuel Management and Non-Radiological Decommissioning." The reason for PGE's desire to more strongly support NEI's comment is that PGE, as a utility licensee of a nuclear facility (Trojan Nuclear Plant) undergoing active decommissioning, accumulates funds for radiological decommissioning, spent fuel management, and non-radiological decommissioning in a single external trust fund. PGE has been commingling these funds in this manner in accordance with an NRC-approved Trojan-specific decommissioning cost estimate and funding plan (contained in the Trojan Nuclear Plant Decommissioning Plan and License Termination Plan). For approximately eight years, PGE has been withdrawing monies from the decommissioning trust fund, in accordance with 10 CFR 50.82(a)(8)(i), as necessary to accomplish radiological decommissioning activities, spent fuel management activities, and some non-radiological decommissioning activities, and on the expenditure schedule detailed in the approved Trojan Nuclear Plant cost estimate and funding plan.

Combining radiological decommissioning funds together with non-radiological and spent fuel management funds in a single external trust account has been both economically and functionally advantageous. Furthermore, the Oregon Public Utility Commission (OPUC) has approved the manner in which the different types of decommissioning funds are handled in a single external trust, and any significant change in such handling would require OPUC notification and review. Therefore, PGE wishes to be able to continue with such commingling of funds through the completion of Trojan Nuclear Plant decommissioning.

The proposed 10 CFR 50.75(h)(1)(iii) would preclude such commingling of funds in a single external trust fund account, since withdrawals from the fund under the proposed rule would be

Template=SECY-067

SECY-02

allowed only for radiological decommissioning costs. Under the proposed rule, if a licensee were to commingle funds into a single account as PGE has done and continues to do, the licensee would be unable to access funds necessary for activities that are not considered radiological decommissioning, but are nevertheless necessary in order to complete decommissioning. For example, completion of the Trojan Nuclear Plant decommissioning requires the construction of a dry storage facility and transfer of the spent nuclear fuel from the Spent Fuel Pool to the dry storage facility in accordance with Trojan's NRC-approved 10 CFR 50.54(bb) spent fuel management plan. Over the past several years, PGE has continually withdrawn funds from the decommissioning trust fund to cover the cost of dry storage facility construction. These withdrawals would not have been possible under the proposed rulemaking of 10 CFR 50.75(h)(1)(iii), even though the NRC has pre-approved: (1) the construction and associated costs of a dry storage facility; (2) the schedule for such construction and for incurring such costs; and (3) the schedule for and manner of (commingling) accumulating funds to cover such costs.

Therefore, PGE strongly urges the NRC to incorporate NEI Comment 4.e as described in NEI's August 13, 2001, letter, such that the following sentence (excerpted from Page 15 of NEI's August 13, 2001, comment letter) should be added at the end of 10 CFR 50.75(h)(1)(iii):

Notwithstanding the foregoing, disbursements or payments from the trust may be made for purposes of management of irradiated fuel, either pursuant to a program which is the subject of written notification to NRC pursuant to 10 CFR 50.54(bb), or pursuant to other written notification to NRC, and may be made for purposes of non-radiological decommissioning after having first given thirty days prior written notice to the Director, Office of Nuclear Reactor Regulation, of the licensee's intent to begin expending funds for such purposes.

To provide guidance with respect to this additional wording, it is recommended that Section 2.2.2.4 of DG-1106 be revised to specifically describe the acceptable forms that a written notice of intent to begin expending funds for such purposes may take. Acceptable forms should include an NRC approval of a site-specific decommissioning cost estimate and funding plan that includes activity costs and schedules related to spent fuel management and non-radiological decommissioning.

From: Carol Gallagher
To: Evangeline Ngbea
Date: Fri, Aug 17, 2001 11:18 AM
Subject: Comment on Proposed Rule

Attached for docketing is a supplemental comment letter from Steven Quennoz on the Proposed Rule on Decommissioning Trust Provisions that I received via the Rulemaking website on 8/16/01.

Carol