

March 17, 2005

Mr. Stephen M. Quennoz  
Vice President, Generation  
Portland General Electric Company  
Trojan Nuclear Power Plant  
71760 Columbia River Highway  
Rainier, OR 97048

SUBJECT: PARTIAL CONDITIONAL EXEMPTION FROM THE REQUIREMENTS OF 10  
CFR 72.30(c)(5)

Dear Mr. Quennoz:

The purpose of this letter is to notify you of approval of a partial conditional exemption from the requirements of 10 CFR 72.30(c)(5). On April 29, 2004, Portland General Electric (PGE) filed a request for U.S. Nuclear Regulatory Commission (NRC) approval of a partial exemption from the provision of 10 CFR 72.30(c)(5) that requires an independent spent fuel installation (ISFSI) licensee to additionally hold a Part 50 license in order to use an external sinking fund as the exclusive means of financial assurance for decommissioning costs of an ISFSI.

Pursuant to the requirements of 10 CFR 72.7, PGE requested a partial exemption from the financial assurance requirements of 10 CFR 72.30(c)(5). The exemption request was "partial" because it would apply only to the requirement that PGE, the Trojan ISFSI licensee, also hold a Part 50 license to use an external sinking fund as its exclusive method of providing financial assurance for the Trojan ISFSI. PGE will continue to provide financial assurance conforming to the requirements of 10 CFR 50.75(e) and (h), although it reserves the right to change to another method as provided in other sections of 10 CFR 72.30(c).

The NRC has reviewed the PGE request and determined that the specific exemption to the financial assurance requirements of 10 CFR 72.30(c)(5) is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, a partial exemption from the requirement of 10 CFR 72.30(c)(5) is granted subject to the following two conditions: (1) the exemption shall not become effective until the PGE submits, within 30 days of the issuance of this grant of exemption, documentation adequate to demonstrate that funding for the Trojan ISFSI decommissioning has been approved for recovery in rates by a rate making authority; and (2) the exemption shall cease to be effective in the event that funds remaining to be placed into the Trojan ISFSI decommissioning external sinking fund are no longer approved for recovery in rates by a competent rate regulating authority. This exemption is effective only upon satisfaction of Condition 1 above, and shall cease being effective in the event Condition 2 above is met.

In connection with the issuance of the exemption, an Environmental Assessment and Finding of No Significant Impact was noticed in the Federal Register on March 17, 2005 (70 FR 13052). The technical bases for granting the exemption request, are set forth in the enclosed Safety Evaluation Report.

S. Quennoz

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I am enclosing a copy of the Notice of Issuance of Partial Conditional Exemption from the Requirements of 10 CFR 72.30(c)(5) for the Trojan ISFSI for your information. The notice has been forwarded to the Office of the Federal Register for publication.

If you have any comments or questions concerning this action, you may contact me at (301) 415-8500. Please refer to Docket No. 72-17 and TAC No. L23737 in future correspondence related to this issue.

Sincerely,

/RA/

Brian Thomas, Deputy Director  
Licensing and Inspection Directorate  
Spent Fuel Project Office  
Office of Nuclear Material Safety  
and Safeguards

Docket No. 72-17  
TAC No. L23737

Enclosures: 1) Safety Evaluation Report  
2) Federal Register Notice

March 17, 2005

S. Quennoz

-2-

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If you have any comments or questions concerning this action, you may contact me at (301) 415-8500. Please refer to Docket No. 72-17 and TAC No. L23737 in future correspondence related to this issue.

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Brian Thomas, Deputy Director  
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Docket No. 72-17  
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Enclosures: 1) Safety Evaluation Report  
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**ML050770193**

\*See previous Concurrence

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Trojan Nuclear Plant  
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Rainier, OR 97048

**UNITED STATES NUCLEAR REGULATORY COMMISSION**  
**NOTICE OF ISSUANCE OF PARTIAL CONDITIONAL EXEMPTION**  
**FROM REQUIREMENTS OF 10 CFR 72.30(c)(5)**  
**PORTLAND GENERAL ELECTRIC COMPANY**  
**TROJAN INDEPENDENT SPENT FUEL STORAGE FACILITY**  
**DOCKET NO. 72-17**

**AGENCY:** Nuclear Regulatory Commission

**ACTION:** Notice of Partial Conditional Exemption from the Requirements of 10 CFR 72.30(c)(5)

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Regan, Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 415-8500; fax number: (301) 415-8555; e-mail: [cmr1@nrc.gov](mailto:cmr1@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. BACKGROUND**

Portland General Electric Company (PGE) is the licensee and holder of License No. SNM-2509 for the Trojan Independent Spent Fuel Storage Facility (Trojan ISFSI). In addition, PGE holds License No. NPF-1, pursuant to 10 CFR Part 50, for the Trojan Nuclear Plant. The licensee will complete decommissioning of the Trojan Nuclear Plant and intends to terminate its Part 50 license for the Trojan Nuclear Plant. The Trojan ISFSI contains the spent fuel removed from the Trojan Nuclear Plant.

Currently, the licensee provides financial assurance for the Trojan ISFSI pursuant to 10 CFR 72.30(c)(5), which allows a Part 50 license holder to use the financial assurance provisions of Part 50 to provide financial assurance for an ISFSI. The licensee maintains an external sinking fund for decommissioning funds pursuant to 10 CFR 50.75(e). However, when its Part 50 license is terminated, it will no longer meet the condition of 10 CFR 72.30(c)(5) that allows it to use its existing external sinking fund to provide financial assurance for its ISFSI.

On April 29, 2004, PGE filed a request for NRC approval of a partial exemption from the provision of 10 CFR 72.30(c)(5) that requires an ISFSI licensee to additionally hold a Part 50 license in order to use an external sinking fund as the exclusive means of financial assurance for decommissioning costs of an ISFSI.

## **II. REQUESTED ACTION**

Pursuant to the requirements of 10 CFR 72.7, PGE requested a partial exemption from the financial assurance requirements of 10 CFR 72.30(c)(5). The exemption request was “partial” because it would apply only to the requirement that the ISFSI licensee also hold a Part 50 license to use an external sinking fund as its exclusive method of providing financial assurance for its ISFSI. The licensee will continue to provide financial assurance conforming to the requirements of 10 CFR 50.75(e) and (h), although it reserved the right to change to another method as provided in other sections of 10 CFR 72.30(c). The licensee pointed out that the wording of 10 CFR 72.30(c)(5) allowed an “electric utility” to use an external sinking fund as the exclusive method of providing financial assurance when its Part 72 ISFSI license was first issued. However, the rule was amended effective on December 24, 2003, which resulted in the change of the condition from “electric utility” to “a Part 50 licensee.” PGE stated

that it will remain an electric utility after the termination of its Part 50 license, hence it will continue to meet the intent of the rule as originally issued.

### III. DISCUSSION

The Commission may grant a specific exemption to the financial assurance requirements of 10 CFR 72.30(c)(5) provided that the requirements of 10 CFR 72.7 are satisfied. The Commission determined that a partial exemption from 10 CFR 72.30(c)(5) meets the requirements of 10 CFR 72.7, as discussed below:

#### Specific Exemption is Authorized by Law

Prior to December 24, 2003, any ISFSI licensee that met the definition of “electric utility” in 10 CFR 50.2 was eligible to use the financial assurance methods of 10 CFR 50.75(e) to provide financial assurance for its ISFSI. As a result, the NRC approved use of an external sinking fund conforming to the requirement of 10 CFR 50.75(e)(1)(ii)(A) as financial assurance for the Trojan ISFSI pursuant to 10 CFR 72.30(c)(5).

The amendment to 10 CFR 72.30(c)(5) that became effective December 24, 2003, was incidental to the primary changes in Part 50 issued at the same time with regard to reactor decommissioning trust funds. The amendment to 10 CFR 72.30(c)(5) was in response to a comment that suggested the change to maintain consistency between Parts 72 and 50, but did not change the basis of the regulations.

The basis of 10 CFR 50.75(e)(1)(ii)(A) is that a licensee that recovers decommissioning costs through rates established through “cost of service” or similar rate-making authority may use an external sinking fund as its exclusive means of financial assurance. A licensee that is a public utility is presumed to meet that basis. Because PGE will remain a public utility after termination of its Part 50 license, it will continue to meet the basis for allowing a Part 72

licensee to provide financial assurance using the methods of Part 50. Therefore, the partial exemption from Part 72 is authorized by law.

Specific Exemption Will Not Present an Undue Risk to the Public Health and Safety

The specific exemption requested is administrative in nature. The exemption does not have any reasonable potential to (1) foreclose release of the Trojan ISFSI site for unrestricted use; (2) result in significant environmental impacts not previously reviewed; or (3) result in there no longer being reasonable assurance that adequate funds will be available for decommissioning. The exemption will allow use of a financial assurance method currently in use that has been approved by the NRC. Therefore, the partial exemption will not present an undue risk to the public health.

Specific Exemption Will Not Endanger the Common Defense and Security

The partial exemption is administrative in nature and does not involve information of activities that could potentially impact the common defense and security of the United States. Therefore, partial exemption will not endanger the common defense and security.

Specific Exemption is Otherwise in the Public Interest

PGE's 2003 Annual Financial Statement (Form 10-K, submitted to the U.S. Securities and Exchange Commission (SEC) on March 19, 2004) stated that PGE will collect \$14 million annually, until 2011, from its customers to pay for decommissioning. This includes funding for radiological and non-radiological decontamination as well as on-site spent nuclear fuel storage. Those collections will occur whether or not the exemption is granted. However, if the exemption is not granted, PGE will incur higher costs due to the expense of providing a second independent financial assurance instrument, which would lead to unnecessary additional costs. Therefore, the exemption is in the public interest.

### Financial Ability of PGE to Fund the ISFSI Decommissioning Cost

The Trojan ISFSI decommissioning cost estimate was \$7.9 million in 1997. Adjusting for inflation to 2004 would increase the cost to about \$10 million. In order to assess the ability of PGE to finance that cost, the staff reviewed PGE's 2003 Form 10-K. The financial statements show that PGE possesses \$3.37 billion in assets and earns \$1.7 billion annually in revenues. The financial report stated that PGE maintained a strong financial position with stable cash flow, and will receive \$14 million per year through 2011 for decommissioning costs. The cost of decommissioning the Trojan ISFSI appears well within the licensee's financial ability.

At the time of filing its exemption request, PGE was a wholly owned subsidiary of Enron Corporation. The staff determined that Enron's bankruptcy will not adversely affect PGE's ability to fund decommissioning of its Trojan ISFSI. Although Enron filed for bankruptcy protection, PGE did not. Regulatory "ring-fencing" effectively insulated PGE and its customers from the effects of Enron's bankruptcy. (Ring fencing is a state public utility board's regulatory strategy that prevents a utility's assets from being pledged as security for a parent company's obligations.) PGE's Quarterly Report, Form 10-Q, submitted to the SEC on November 5, 2004, states on page 41:

"PGE, as a separate corporation, owns or leases the assets used in its business and PGE's management, separate from Enron, is responsible for PGE's day-to-day operations. PGE maintains its own cash management system and finances itself separately from Enron, on both a short- and long-term basis. Neither PGE nor Enron have guaranteed the obligations of the other and there are no loans between them. Under Oregon law and specific conditions imposed on Enron and PGE by the Oregon Public Utilities Commission (OPUC) in connection with Enron's acquisition of PGE in the merger of Enron and Portland General

Corporation in 1997, Enron's access to PGE cash or utility assets (through dividends or otherwise) is limited.”

Therefore, PGE's assets will be available to provide funding for decommissioning if it continues as an Enron subsidiary. However, Enron entered into an agreement with Oregon Electric Utility Company, LLC, to sell all issued and outstanding PGE stock to Oregon Electric. In the event the sale is consummated, the Enron bankruptcy will be of no further concern.

#### **IV. CONCLUSION**

The Commission determined that the specific exemption to the financial assurance requirements of 10 CFR 72.30(c)(5) is authorized by law and will not endanger life or property, or the common defense and security and is otherwise in the public interest.

In connection with the issuance of the exemption, an Environmental Assessment and Finding of No Significant Impact was noticed in the Federal Register on March 17, 2005 (70 FR 13052).

Therefore, the Commission grants a partial exemption from the requirement of 10 CFR 72.30(c)(5) that the licensee must hold a Part 50 license in order to provide financial assurance using the methods of 10 CFR 50.75(e) and (h); however, the exemption is granted subject to the following two conditions:

1. The exemption shall not become effective until the licensee submits, within 30 days of the issuance of this grant of exemption, documentation adequate to demonstrate that funding for the Trojan ISFSI decommissioning has been approved for recovery in rates by a rate making authority; and

2. The exemption shall cease to be effective in the event that funds remaining to be placed into the Trojan ISFSI decommissioning external sinking fund are no longer approved for recovery in rates by a competent rate regulating authority.

This exemption is effective upon satisfaction of Condition 1 above, and shall cease being effective in the event Condition 2 above is triggered.

**FURTHER INFORMATION:**

Supporting documentation, with respect to this exemption request, is available for inspection at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/ADAMS.html>. A copy of the PGE request for NRC approval of a partial exemption from the provision of 10 CFR 72.30(c)(5), dated April 29, 2004, can be found at this site using the Agencywide Documents Access and Management System (ADAMS) accession number ML041260470. Any questions should be referred to Christopher M. Regan, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Mailstop O 13D13, telephone (301) 415-8500, fax (301) 415-8555.

Dated at Rockville, Maryland this 17<sup>th</sup> day of March, 2005.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/  
Christopher M. Regan, Senior Project Manager  
Licensing Section  
Spent Fuel Project Office  
Office of Nuclear Material Safety  
and Safeguards

This exemption is effective upon satisfaction of Condition 1 above, and shall cease being effective in the event Condition 2 above is triggered.

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Supporting documentation, with respect to this exemption request, is available for inspection at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/ADAMS.html>. A copy of the PGE request for NRC approval of a partial exemption from the provision of 10 CFR 72.30(c)(5), dated April 29, 2004, can be found at this site using the Agencywide Documents Access and Management System (ADAMS) accession number ML041260470. Any questions should be referred to Christopher M. Regan, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Mailstop O 13D13, telephone (301) 415-8500, fax (301) 415-8555.

Dated at Rockville, Maryland this 17<sup>th</sup> day of March, 2005.

FOR THE NUCLEAR REGULATORY COMMISSION

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Christopher M. Regan, Senior Project Manager  
Licensing Section  
Spent Fuel Project Office  
Office of Nuclear Material Safety  
and Safeguards

ML050770193

\*See previous concurrence

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## **SAFETY EVALUATION REPORT**

Docket No. 72-17  
Portland General Electric  
Trojan Independent Spent Fuel Storage Installation  
License No. SNM-2509  
Exemption Request

### **Summary**

Pursuant to the requirements of 10 CFR 72.7, Portland General Electric (PGE) requested a partial exemption from the financial assurance requirements of 10 CFR 72.30(c)(5). The exemption request was “partial” because it would apply only to the requirement that the PGE, the Trojan Independent Spent Fuel Storage Installation (ISFSI) licensee, also hold a Part 50 license to use an external sinking fund as its exclusive method of providing financial assurance for the Trojan ISFSI. PGE will continue to provide financial assurance conforming to the requirements of 10 CFR 50.75(e) and (h), although it reserves the right to change to another method as provided in other sections of 10 CFR 72.30(c).

The Nuclear Regulatory Commission (NRC) has reviewed the PGE request and determined that the specific exemption to the financial assurance requirements of 10 CFR 72.30(c)(5) is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, a partial exemption from the requirement of 10 CFR 72.30(c)(5) is granted subject to the following two conditions: (1) the exemption shall not become effective until the PGE submits, within 30 days of the issuance of this grant of exemption, documentation adequate to demonstrate that funding for the Trojan ISFSI decommissioning has been approved for recovery in rates by a rate making authority; and (2) the exemption shall cease to be effective in the event that funds remaining to be placed into the Trojan ISFSI decommissioning external sinking fund are no longer approved for recovery in rates by a competent rate regulating authority. This exemption is effective only upon satisfaction of Condition 1 above, and shall cease being effective in the event Condition 2 above is met.

### **Introduction**

Portland General Electric Company (PGE) is the licensee and holder of License No. SNM-2509 for the Trojan Independent Spent Fuel Storage Facility (Trojan ISFSI). In addition, PGE holds License No. NPF-1, pursuant to 10 CFR Part 50, for the Trojan Nuclear Plant. The licensee will complete decommissioning of the Trojan Nuclear Plant and intends to terminate its Part 50 license for the Trojan Nuclear Plant. The Trojan ISFSI contains the spent fuel removed from the Trojan Nuclear Plant.

Currently, the licensee provides financial assurance for the Trojan ISFSI pursuant to 10 CFR 72.30(c)(5), which allows a Part 50 license holder to use the financial assurance provisions of Part 50 to provide financial assurance for an ISFSI. The licensee maintains an external sinking fund for decommissioning funds pursuant to 10 CFR 50.75(e). However, when its Part 50

license is terminated, it will no longer meet the condition of 10 CFR 72.30(c)(5) that allows it to use its existing external sinking fund to provide financial assurance for its ISFSI.

On April 29, 2004, PGE filed a request for NRC approval of a partial exemption from the provision of 10 CFR 72.30(c)(5) that requires an ISFSI licensee to additionally hold a Part 50 license in order to use an external sinking fund as the exclusive means of financial assurance for decommissioning costs of an ISFSI.

### **Scope**

Pursuant to the requirements of 10 CFR 72.7, PGE requested a partial exemption from the financial assurance requirements of 10 CFR 72.30(c)(5). The exemption request was “partial” because it would apply only to the requirement that the ISFSI licensee also hold a Part 50 license to use an external sinking fund as its exclusive method of providing financial assurance for its ISFSI. The licensee will continue to provide financial assurance conforming to the requirements of 10 CFR 50.75(e) and (h), although it reserved the right to change to another method as provided in other sections of 10 CFR 72.30(c). The licensee pointed out that the wording of 10 CFR 72.30(c)(5) allowed an “electric utility” to use an external sinking fund as the exclusive method of providing financial assurance when its Part 72 ISFSI license was first issued. However, the rule was amended effective on December 24, 2003, which resulted in the change of the condition from “electric utility” to “a Part 50 licensee.” PGE stated that it will remain an electric utility after the termination of its Part 50 license, hence it will continue to meet the intent of the rule as originally issued.

### **Review**

The Commission may grant a specific exemption to the financial assurance requirements of 10 CFR 72.30(c)(5) provided that the requirements of 10 CFR 72.7 are satisfied. The Commission determined that a partial exemption from 10 CFR 72.30(c)(5) meets the requirements of 10 CFR 72.7, as discussed below:

#### **Specific Exemption is Authorized by Law**

Prior to December 24, 2003, any ISFSI licensee that met the definition of “electric utility” in 10 CFR 50.2 was eligible to use the financial assurance methods of 10 CFR 50.75(e) to provide financial assurance for its ISFSI. As a result, the NRC approved use of an external sinking fund conforming to the requirement of 10 CFR 50.75(e)(1)(ii)(A) as financial assurance for the Trojan ISFSI pursuant to 10 CFR 72.30(c)(5).

The amendment to 10 CFR 72.30(c)(5) that became effective December 24, 2003, was incidental to the primary changes in Part 50 issued at the same time with regard to reactor decommissioning trust funds. The amendment to 10 CFR 72.30(c)(5) was in response to a comment that suggested the change to maintain consistency between Parts 72 and 50, but did not change the basis of the regulations.

The basis of 10 CFR 50.75(e)(1)(ii)(A) is that a licensee that recovers decommissioning costs through rates established through “cost of service” or similar rate-making authority may use an external sinking fund as its exclusive means of financial assurance. A licensee that is a public

utility is presumed to meet that basis. Because PGE will remain a public utility after termination of its Part 50 license, it will continue to meet the basis for allowing a Part 72 licensee to provide financial assurance using the methods of Part 50. Therefore, the partial exemption from Part 72 is authorized by law.

#### Specific Exemption Will Not Present an Undue Risk to the Public Health and Safety

The specific exemption requested is administrative in nature. The exemption does not have any reasonable potential to (1) foreclose release of the Trojan ISFSI site for unrestricted use; (2) result in significant environmental impacts not previously reviewed; or (3) result in there no longer being reasonable assurance that adequate funds will be available for decommissioning. The exemption will allow use of a financial assurance method currently in use that has been approved by the NRC. Therefore, the partial exemption will not present an undue risk to the public health.

#### Specific Exemption Will Not Endanger the Common Defense and Security

The partial exemption is administrative in nature and does not involve information of activities that could potentially impact the common defense and security of the United States. Therefore, partial exemption will not endanger the common defense and security.

#### Specific Exemption is Otherwise in the Public Interest

PGE's 2003 Annual Financial Statement (Form 10-K, submitted to the U.S. Securities and Exchange Commission (SEC) on March 19, 2004) stated that PGE will collect \$14 million annually, until 2011, from its customers to pay for decommissioning. Those collections will occur whether or not the exemption is granted. However, if the exemption is not granted, PGE will incur higher costs due to the expense of providing a second independent financial assurance instrument, which would lead to unnecessary additional costs. Therefore, the exemption is in the public interest.

#### Financial Ability of PGE to Fund the ISFSI Decommissioning Cost

The Trojan ISFSI decommissioning cost estimate was \$7.9 million in 1997. Adjusting for inflation to 2004 would increase the cost to about \$10 million. In order to assess the ability of PGE to finance that cost, the staff reviewed PGE's 2003 Form 10-K. The financial statements show that PGE possesses \$3.37 billion in assets and earns \$1.7 billion annually in revenues. The financial report stated that PGE maintained a strong financial position with stable cash flow, and will receive \$14 million per year through 2011 for decommissioning costs. The cost of decommissioning the Trojan ISFSI appears well within the licensee's financial ability.

At the time of filing its exemption request, PGE was a wholly owned subsidiary of Enron Corporation. The staff determined that Enron's bankruptcy will not adversely affect PGE's ability to fund decommissioning of its Trojan ISFSI. Although Enron filed for bankruptcy protection, PGE did not. Regulatory "ring-fencing" effectively insulated PGE and its customers from the effects of Enron's bankruptcy. (Ring fencing is a state public utility board's regulatory strategy that prevents a utility's assets from being pledged as security for a parent company's obligations.) PGE's Quarterly Report, Form 10-Q, submitted to the SEC on November 5, 2004, states on page 41:

“PGE, as a separate corporation, owns or leases the assets used in its business and PGE's management, separate from Enron, is responsible for PGE's day-to-day operations. PGE maintains its own cash management system and finances itself separately from Enron, on both a short- and long-term basis. Neither PGE nor Enron have guaranteed the obligations of the other and there are no loans between them. Under Oregon law and specific conditions imposed on Enron and PGE by the Oregon Public Utilities Commission (OPUC) in connection with Enron's acquisition of PGE in the merger of Enron and Portland General Corporation in 1997, Enron's access to PGE cash or utility assets (through dividends or otherwise) is limited.”

Therefore, PGE's assets will be available to provide funding for decommissioning if it continues as an Enron subsidiary. However, Enron entered into an agreement with Oregon Electric Utility Company, LLC, to sell all issued and outstanding PGE stock to Oregon Electric. In the event the sale is consummated, the Enron bankruptcy will be of no further concern.

### **Findings**

The Commission determined that the specific exemption to the financial assurance requirements of 10 CFR 72.30(c)(5) is authorized by law and will not endanger life or property, or the common defense and security and is otherwise in the public interest.

Therefore, the Commission grants a partial exemption from the requirement of 10 CFR 72.30(c)(5) that the licensee must hold a Part 50 license in order to provide financial assurance using the methods of 10 CFR 50.75(e) and (h); however, the exemption is granted subject to the following two conditions:

1. The exemption shall not become effective until the licensee submits, within 30 days of the issuance of this grant of exemption, documentation adequate to demonstrate that funding for the Trojan ISFSI decommissioning has been approved for recovery in rates by a rate making authority; and
2. The exemption shall cease to be effective in the event that funds remaining to be placed into the Trojan ISFSI decommissioning external sinking fund are no longer approved for recovery in rates by a competent rate regulating authority.

This exemption is effective upon satisfaction of Condition 1 above, and shall cease being effective in the event Condition 2 above is triggered.

Dated: March 17, 2005